

CENSORSHIP OF FOREIGN BOOKS

# CONGRESSIONAL DIGEST

WASHINGTON D.C.



The Pro and Con Monthly

FEBRUARY, 1930

Censorship in Early European History  
Chronology of Censorship in America  
Federal and State Laws on Censorship  
The Cutting Amendment to the Tariff Bill

#### Articles by

Hon. Seymour Lowman, Assistant Secretary of the Treasury  
Hon. Reed Smoot, Senator from Utah  
Hon. Bronson Cutting, Senator from New Mexico  
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# The Congressional Digest

## The Pro and Con Monthly

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# The Congressional Digest

February, 1930

Vol. 9 - No. 2

## LEGISLATIVE DEPARTMENT

THE PRO AND CON FEATURE    ACTION BY HOUSE AND SENATE    LEGISLATIVE NEWS ITEMS

### Censorship of Foreign Books

Early Records of Censorship

Customs Laws and Foreign Publications

State Laws on Censorship

The Cutting Amendment

The American Colonies and Free Speech

#### Origin of the Term "Censor"



ENSOR (from *censere*, to estimate), the title of two magistrates of the highest importance in the Roman republic. It was their duty to take a census of the citizens, to estimate their property and impose taxes in proportion to what each possessed, and to punish offences not only against morality, but against the conventional requirements of Roman custom. They took cognizance of bad cultivation of the land, of the carrying on of any occupation which was considered disgraceful, of luxuriousness, of celibacy, and of many other matters of a similar kind. If the offender was a senator, they might remove him from the senate; if eques, they might take from him his horse, they might expel him from his tribe, and they might lower him to aerarian rank. There was, however, an appeal from their decisions to an assembly of the people; and they could only punish a citizen for some definite fault, which they were bound to declare in their list. The censors also appointed the *principes senatus*,

and filled up all vacancies in the senate. At first this was done at their own discretion, but afterwards they were controlled by the *lex Ovinia*, which bound them to choose ex-magistrates in the order of their rank. The censors also let out the taxes to farm; and they took charge of all public buildings, roads, and aqueducts, and undertook the construction of new public works.

At first the duration of the censorship was five years, but in 433 B. C. the dictator Mamercinus made a law restricting it to a year and a half. Upon the death of either censor the other resigned, and a new election was held. Originally patricians alone were eligible; but in 351 B. C. the plebeians were admitted. The censorship was instituted in 443 B. C.; and the office continued to the time of the emperors. Vespasian and his son took the title; and the last who bore it was the brother of Constantine. The emperor generally assumed censorial power under the title of *morum praefecti*.—*Extract, See 1, pg. 64.*

## Censorship in Early European History

### Ancient Practices of Supervising Thought and Speech

by George Haven Putnam

Author and Publisher



HE practice of supervising, restricting, or prohibiting the expression of intellectual conceptions or the dissemination of ideas is as old as the organization of society itself. Some one holding authority or claiming authority was always ready to object to the free circulation of ideas as threatening danger to existing institutions, religious or political. The two earliest authorities recognized, by men, that of the ruler, whether of the family, the clan, or the State, and that of the priest, the representative of the accepted religion, were equally interested in retaining control over the direction and the expression of thought. In the earlier communities, political and religious authority were frequently combined in the same individual. It is probable that in these states the contention for an authoritative control of opinion rested chiefly upon the risk that heretical utterances might interfere with the public peace.

#### *The Case of Socrates*

The earliest method of publication was in the form of the lecture or recital. A censorship or control of the utterances of the lecturer could be exercised by the very simple method of prohibiting the lecture, and, in case of contumacy, of imprisoning or killing the lecturer. The decision of the authorities at Athens in 400 B. C. that Socrates must be put to death, is often referred to as possibly the earliest recorded example of censorship by the State. It is certain that no organized official censorship ever came into existence in Greece. The philosophers and the poets appear to have lectured and written without hindrance and without supervision.

#### *The Roman Empire*

There are instances of literary censorship on the part of the imperial authorities of Rome before the institution of the Christian Church. Thus Tacitus remarks that Augustus was the first ruler who undertook to punish a word written or spoken, that is to say, a word unaccompanied by action. The law of the Roman Republic had recognized as deserving of punishment only criminal deeds, but the Emperor brought the authority of the law to bear upon writings described as libellous or scandalous (*libelli famosi*). He ordered, for instance, that the writings of Labienus should be publicly burned. His successor, Tiberius, issued a still stronger regulation for the supervision of undisciplined or insubordinate writings. Cremutius Cordus was driven from his occupation and left to die through poverty for the offense of speaking of Gaius Cassius as the "last Roman." His writings were ordered to be burned by the aedile.

#### *Tacitus on Censorship*

Tacitus speaks with scorn on those who, in the possession of a little momentary power, undertake to crush out opinions not in accord with their owner to prevent such opinions from being handed down to posterity. The writings of Verjinto were prohibited by Nero. Concerning this prohibition, Tacitus writes: "So long as the possession of these writings was attended by danger, they were eagerly sought and read; when there was no longer any difficulty in securing them, they fell into oblivion." This statement of literary conditions under the early Empire shows a curious resemblance to the results which obtained throughout Europe fourteen centuries later. The books which were formally condemned and the titles of which were placed on the Index obtained an advertisement which secured for them a decided advantage over works of the same general character that had not been fortunate enough to be picked out for reprobation. An edict ascribed to Domitian ordered that the historian Hermogenes and any book dealers who assisted in the distribution of certain writings of his which had libeled the Emperor should be crucified. Severus and certain other bishops Justinian deposed from office, because they had been lax in their supervision of literature and had permitted the wide circulation throughout the realm of prohibited books and of pernicious writings.

#### *Church Censorship*

With the development of the Church of Rome to the ecclesiastical headship of the civilized world, the claim for the supervision of literature and for the control of the productions of authors was asserted by the Church as the legitimate successor of the imperial authority. The earliest and most sweeping censorship of the Christian Church is probably that contained in the Apostolic Constitutions, which purport to have been written by St. Clement of Rome at the dictation of the Apostles. These constitutions prefigure the Index by forbidding the Christians to read any books of the Gentiles; "The Scriptures should suffice for the believer" (Const. Apost. Lib. 1, CVIII). This general prohibition of St. Clement (which bore date about 95 A. D.) is followed by a series of prohibitions issued by the authorities of the early Church, mainly under the decision of the councils. For instance, in 150, a synod of bishops of Asia Minor, meeting at Ephesus, prohibited the *Acta Pauli*, an historical romance written a little earlier in the century, and having for its purpose the clarification of the life and labors of St. Paul.

#### *The Edicts of Emperor Constantine*

In 325 edicts were issued by the Emperor Constantine and prohibitions by the Council of Nicaea, against the

writings of Arius and of Porphyry. The Emperor ordered the penalty of death for any who might conceal copies. In 399 the Emperor Arcadius issued an edict, based upon the recommendation of a council of the Church, ordering the destruction, under penalty of death, of all books of magic art. The various denunciations of books of magic art were, under the influence of the ecclesiastics who might happen to be in control of the proceedings of the councils, utilized for the repression of the writings of their theological opponents. In 399 the Council of Alexandria, presided over by Bishop Theophilus, issued a decree forbidding the owning or the reading of the books of Origen (g. v.). The Egyptian monks protested, and the bishops were obliged to call in the prefects to enforce the authority of its edicts. In 436 the Emperor Theodosius issued an edict forbidding the possession and reading of the books of the Manicheans and ordering the burning of the same. In 446 Pope Leo I issued an edict ordering the destruction of a long series of writings described as not in accord with the teachings of the synods of Nicaea and, therefore, antagonistic to the Christian religion. The prohibition prescribes that: "Whoever owns or reads these books is to suffer extreme punishment." In 499 Pope Gelasius issued what is later referred to as the first papal Index. It presents a catalogue of books prohibited, but the prohibitions have to do not with private or general, but with public or official reading. In 496 Gelasius issued a decree, confirmed later by the Emperor Gratian, which specified the patristic writings accepted and approved by the Church, and which then proceeded to the condemnation of a long series of apocryphal and heretical writings and writers. The classification of the writings to be condemned is curiously general in terms (*Haec et omnia his similia*, etc.).

#### *The Birth of the Printing Press*

The great impetus given to the distribution of books by the invention of the printing press (1450) had as one result a fresh effort at supervision and control of literary production on the part of the Church. The first measures that were put into shape for the enforcement of such control provided for what has been called preventive censorship; that is, for a requirement, before the printed book could be put into circulation, of an examination and approval by ecclesiastical authorities. It was, however, not until half a century after Gutenberg had printed his first book that official cognizance was taken of the new art in a Papal Bull. And it was nearly half a century later before the Church undertook, through a system of expurgatory and prohibitory indexes, to maintain a systematic censorship upon literature. The invention of printing had as an immediate result an enormous in-

crease in the influence upon the shaping of popular opinion of the written word, which now became the printed word, that is, of thought in the form of literature.

#### *Political Censorship*

The interference during the earlier centuries of printing on the part of political rulers was fitful and intermittent, and appears at no time to have arrived at the dignity of a continued policy or system. In a number of states, as in Spain, France, and the Holy Roman Empire, while the rulers continued to claim for themselves the exclusive control of the printing press, they were willing to confide to the ecclesiastics the selections of the books to be condemned and prohibited. The Catholic work of censorship, at least in the countries which remained Catholic, fell, therefore, more and more into the hands of the Church, and was as a result carried on with reference to the clerical standard of orthodoxy and morality and to the clerical theories of what was required for the welfare of the community.

The proportion of works of a purely political character that came under condemnation was small as compared with the long list of books condemned on doctrinal grounds. During the two centuries in which censorship exerted the largest influence upon intellectual development, say from 1550 to 1750, the minds of men were directed more largely to doctrinal questions than to political matters. It was not the State, but the Church, whose authority and existence were assailed, and the contest was fought out not over political platforms, but over creeds.

#### *Beginning of the Reformation*

When, with the beginning of the Reformation, it became apparent how great a range of influence was possessed by the printed sheet, the problem that confronted the authorities of the Church was certainly serious in more ways than one. For the space of fifteen centuries the education of the people had remained almost exclusively under the direction of the Church. The faithful had accepted their entire intellectual sustenance at the hands of the priests. In 1516 the leaders of the Reformation, in beginning their long contest against the Church of Rome, promptly availed themselves of the power of the printing press. While the words spoken in the pulpit or in the market place could reach at best but a few hundred of hearers, the tracts poured forth from the Wittenberg presses, the "flying leaves" (*Flugschriften*), carried to many thousands the teachings of Luther and Melancthon, and it was through these "winged words" (*Epea Pteroenta*) that the revolt developed into a revolution. —*Extracts, see 2, pg. 64.*

## *A Chronology of Censorship in America*

1607—On May 13, the first permanent settlement in America was made at Jamestown, Virginia, by Sir Thomas Gates and Company, who had obtained a charter from James I.

1609—The London Company superseded Gates and Company as holders of the Virginia Charter, which gave to the colonists "all the rights of natural-born Englishmen."

1619—The first legislative assembly to be organized in America met at James City.

1620—The first permanent settlement in Massachusetts was made by the Pilgrims at Plymouth, where they landed December 21 (new style calendar). They had intended to make their land-fall further south, within the jurisdiction of the Virginia Company, which had granted them a patent; but stress of weather prevented their doing so. Finding themselves without warrant in a region beyond their patent, they drew up and signed (November 2) before landing, a compact of government, the Mayflower Compact, which is accounted the earliest written consti-

tution in history.

1621—The London Company granted the Virginia colonists a more liberal constitution.

1624—James I arbitrarily deprived the London Company of its charter and Virginia became a royal colony, the king appointing the governor and council and the people electing the members of the houses of Congress.

1628—The Massachusetts Company was formed in England for the purpose of promoting settlements in New England and sent various minor expeditions.

1630—John Winthrop settled Boston. The struggle with the crown which ended in independence, began at the foundation of the colony, with assumptions of powers under the charter.

1637—Censorship of the press in England was strictly enforced by order of the Star Chamber. One of the first Star Chamber decrees stated: "That each printer must register; that no press be established outside of London save one at each great University; that the archbishop of Canterbury, the bishop of London, and other, were to regulate the number of presses and printers; that with few exceptions, no book could be printed without license; that the Company of Stationers could enforce the act and imprison for punishment, that the number of apprentices was limited."

1639—The first press in America, at Cambridge, Massachusetts, was not free, but licensed—(Under the laws operating in England).

1643—The various groups of settlers in Massachusetts, New Haven and New Plymouth formed a confederacy against the Indians.

1649—The Maryland Toleration Act was passed. It contained a written recognition of the principle of religious liberty, though its liberty was limited to Christians. It provided for the punishment, first of blasphemy and Sabbath-breaking, and then for such persons as shall call anyone within the Province, "an heretick, idolator, puritan, Jesuite, Jesuited Papist, Lutheran, Anabaptist . . . or any other name . . . in a reproachfull manner relating to religion." According to this act religion would not excuse anything "unfaithful to the Lord Proprietary, or to molest or conspire against the civil government."

1661—A man was fined ten pounds in Boston for having in his possession a copy of John Lilburne's *Resurrection and W. Duberrie's Mighty Day of the Lord*.

1663—The Rhode Island Charter declared that "the religions must behave peaceably and quietly, nor use their liberty 'to lycentiousness and profaneness'."

1671—Sir William Berkeley of Virginia made the remark: "Thank God, we have neither free school nor printing-press, and I hope may not for a hundred years to come."

1683—Governor Effingham, also of Virginia, received instruction "to allow no person to use the printing-press on any occasion whatsoever."

1685—The crown finally annulled the charter for the colony of Massachusetts and sent Sir Edmund Andros over with a commission to unite New York and New England under his rule.

1686—In this year and for fifty years thereafter, all Colonial governors were given power over the press in their charters of instructions from the crown in these words: "And for as much as great inconvenience may arise by the liberty of printing within our said territory under your government, you are to provide all necessary orders that no person keep any press for printing, nor that any book, pamphlet, or other matter whatsoever be printed without your especial leave and consent first obtained."

1689—Citizens of Boston rose in revolution, deposed

Andros, imprisoned him, and re-established their old colonial form of government.

1690—The first newspaper in America, *Publick Occurrences*, Boston, was suppressed after a single issue by the governor and council of Massachusetts, who declared their "high resentment and disallowance" of its publication on local and military matters. They declared that it came out contrary to law, and strictly forbade "anything in print without license first obtained from those appointed by the government to grant the same."

1691—A new provincial charter was written by the Crown. Under this Plymouth colony was annexed to Massachusetts and Maine. Sir William Phips came over with it, commissioned the first royal governor.

1693—The first printer in Pennsylvania was commanded to print nothing without license from the Council. He resisted but discouraged finally left the colony.

1694—Freedom from censorship before publication was finally obtained when the last of the English Licensing Acts was allowed to lapse, and the Commons refused for four successive years to concur with the Lords in renewing the law.

1704—Printing in Boston was still "under authority."

1711—Governor Hunter of Massachusetts went so far as to seize all the copies of a representation by the popular Assembly.

1719—When Governor Shute of Massachusetts ordered one printer not to print a remonstrance by the House, another one did and was not punished. This practically ended the censorship.

1721—Governor Shute again tried to assert the right of censorship only to meet with a long and defiant "Answer" by the House.

1722—James Franklin was quick to profit by this growing tolerance for free writing, but in this year found himself in jail for insinuating that the government of Massachusetts was tolerating piracy. His paper, the *Boston Courant*, at one time appeared under the name of sixteen-year old Benjamin because its printer had filled it with the radical political views of the young American patriots.

1725—Papers were ordered to drop "Published by Authority" because they were not under the control of authority.

1730—The blanket clause of 1686 was omitted from Governor Belcher's instructions.

1733—John Peter Zenger, publisher of the *New York Journal*, a Whig paper opposed to the Governor's party, printed two satirical political songs. The paper was presented before the Council and copies ordered burned by the sheriff. The Grand Jury refused to indict Zenger so he was arrested on a warrant from the Council. His two lawyer supporters were promptly disbarred, but they managed to enlist Andrew Hamilton, the greatest advocate of the day. By a masterly appeal to the jury over the head of the judge, he persuaded them that they had the right to determine the law as well as the facts, and they acquitted Zenger. Thus the power of the jury to protect a free press was established in America years before it was asserted in England.

1747—When Governor Clinton of New York forbade the reprinting in the *Gazette* of a remonstrance by the Assembly, the Assembly declared his act arbitrary and illegal.

1764—James Otis, a Boston lawyer, drew up a declaration of "The rights of the British Colonists," asserting definite limitation on the English Government. This is considered by historians one of the important statements of the general principle that the government should be restricted by the people since the early Puri-

tan "Constitution" in England a century before.

1767—The Chief Justice of Massachusetts in an opinion stated: "Liberty of the press means no more than a freedom for everything to pass from the press without a license from any authority, but this does not imply the liberty of reviling and calumniating."

1768—The Massachusetts House declared: "The liberty of the press is the bulwark of the liberty of the people."

1774—The First Continental Congress in "The Address to the Inhabitants of Quebec," October 28, included the first national declaration of the value of the freedom of the press: "The last right we shall mention regards the freedom of the press. The importance of this consists, besides the advancement of truth, science, morality and arts in general, in its diffusion of liberal sentiments in the administration of government, its ready communication of thoughts between subjects and its consequential promotion of union among them, whereby oppressive officers are shamed or intimidated into more honorable and just modes of conducting affairs."

1776—The Declaration of Independence was adopted.

1776—On June 12 the Virginia Declaration of Rights appeared and included in Article XII the first appearance of the free press ideal in an American constitution: "The freedom of the press is one of the great bulwarks of liberty and can never be restrained but by despotic governments."

1787—The Constitution of the United States was adopted.

1790—On January 15, the House debated the question of whether newspaper reporters should be allowed to continue the practice of sitting in the House chamber. The reporters were finally permitted to sit in the gallery but only after they had been excluded for two days "along with other strangers."

1791—The Bill of Rights was adopted in the form of the first ten amendments to the Constitution of the United States.

1792—George Fox procured the passage of the Libel Acts by the British Parliament.

1792—The Senate had continued to hold its sessions behind closed doors and in February of this year Mr. Freneau, editor of *The National Gazette*, attacked this policy editorially after a motion in the Senate for opening the doors had been defeated. Following Freneau's attack the Senate ordered the doors opened.

1798—The Alien and Sedition acts were passed. The Sedition Act provided punishment for conspiracies against measures of the government, or to intimidate officers of the government. Section 2 ran: "That if any person shall write, print, utter or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and willingly assist or aid in writing, etc. . . . any false, scandalous, and malicious writings against the government of the United States, or either House of the Congress . . . or the President, with intent to defame the said government, (etc.) . . . or to bring them into contempt or disrepute; or to excite against them . . . the hatred of the good people of the United States, or to stir up sedition in the United States, or to excite any unlawful combination therein for opposing or resisting any law . . . or any act of the President of the United States done in pursuance of any such law, or of the powers vested in him by the Constitution . . . or to resist, oppose, or defeat any such law or act, or to aid, encourage, or abet any hostile designs of any foreign nations, against the United States, their people, or gov-

ernment, then such person, being thereof convicted before any court in the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years."

1835—President Jackson in his annual message to Congress, December 2, included this recommendation: "I must also invite your attention to the painful excitement produced in the South by attempts to circulate through the mails inflammatory appeals addressed to the passions of the slaves . . . calculated to stimulate them to all the horrors of servile war. . . . It is proper for Congress to take such measures as will prevent the Post Office Department, which was designed to foster an amicable intercourse and correspondence between all the members of the confederacy, from being used as an instrument of an opposite character. . . . I would therefore . . . respectfully suggest the propriety of passing such a law as will prohibit, under severe penalties, the circulation in the Southern States, through the mail, of incendiary publications intended to incite the slaves to insurrection."

1836—On April 12 a bill which had been prepared to carry President Jackson's recommendations into effect was defeated in Congress.

1841—An attempt was made in the Senate to exclude reporters of Washington newspapers but the attempted exclusion was for the purpose of favoring party organs in the reporting of debates. Henry Clay declared that \$420,000 had been paid to three Washington newspapers for this purpose.

Attacks on this system by James Gordon Bennett of the *New York Herald* and his announcement that his paper would print daily reports of the Senate Proceedings, free of charge resulted in freedom for all newspaper correspondents in Washington.

1842—The first law giving custom clerks the right of censorship was passed by Congress, as follows: "That the importation of all indecent and obscene prints, paintings, lithographs, engravings, and transparencies is hereby prohibited."

1873—The first law was passed forbidding the transportation in the mails of obscene books, envelopes, post cards, or articles designed to prevent conception, etc.

1890—The censorship provision of the tariff act was changed, providing practically the present law.

1894—The clause about lottery tickets and advertisements of lotteries was written into the tariff law.

1910—On May 4, the United States signed the arrangement between the United States and other powers relative to the circulation of obscene publications.

1928—The officials of the United States Customs Bureau and the postal authorities held a conference, as a result of which 739 books were blacklisted from importation into this country.

1929—On May 28, the new tariff bill passed the House containing an additional provision against the importation of seditious literature.

1929—On September 4, the Senate Committee on Finance changed the provision prohibiting literature containing threats to take the life of the President of the United States . . . to apply to all people in the United States.

1929—On October 11, the Cutting amendment was passed. It changed the censorship provision of the tariff bill, to permit the entry into the United States of all literature except that "urging forcible resistance to any laws of the United States, or containing any threat to take the life, or inflict bodily harm to any person in the United States."

# Freedom of Communication in America

## Growth and Development of Free Speech in the Colonial Period

by Leon Whipple

Member of the Faculty of New York University



**F**REEDOM of communication is the best term for the general principle that the individual should be free to express his thoughts to others. The applications of this principle indicate only differences in the means of communication. The two principal aspects are freedom of speech and freedom of press. Connected with these in modern civilization is freedom of all forms of mechanical communication, the mails, the telegraph, the telephone, the motion-picture and the radio. Freedom of communication may be roughly defined as the right of the individual to communicate to others by any means whatever any thoughts he may have, to urge them as true and good, to secure their acceptance, and generally to produce some action based upon them. Freedom of speech is the natural origin to these other liberties, and its axioms will make clear the principles of them all.

### *Freedom of Speech and Thought*

Freedom of speech is only less elementary than freedom of thought. There is a social urge to talk almost as powerful as the psychic necessity of thinking. Speech can be controlled, but it is not always possible. Sometimes men must speak. The English Constitution did not concern itself with guaranteeing so ancient and natural a right. It was assumed as one of the "absolute rights" of the subject. It conceived, moreover, no difference between private speech and public speech.

Three points-of-view toward freedom of speech need emphasis. First, it may be considered as the right of a man simply as a human being; to express himself is a function of his existence in society. By talking he preserves his identity. Clearly free speech at this point arises out of freedom of thought. Second, as the right of the citizen in relation to other citizens, and this is what is guaranteed by the English law. Third, as the right of a voter under a popular government who must be free to discuss his own institutions, his own representatives; and all proposed measures. This freedom was at least as old as the folk-meetings on which Anglo-Saxon institutions were based. This last sort of free speech was naturally of grave concern to the young American democracies, which had to extend the English conception as an essential of their governmental machine. That they keenly realized this is shown in the repeated grouping in a single clause of the Bills of Rights, of the methods of democratic control-assemblage, speech, petition, and the press.

### *Freedom of Speech a "License"*

Although these recognitions of free speech existed, yet neither England nor the United States, even after the Revolution, expressly granted the right of the citizen to say anything he chose, to anyone, anywhere. That was

pure "license" which many agreed must be limited. And these claimed limits upon free speech for the public good are its real problem. They express themselves in laws which act powerfully to restrain freedom by their threats of penalties. They descended generally from the Common Law and Courts of England, though with some American additions. We understand what the Fathers meant by freedom of speech only when we have grasped these limitations as they existed in 1791, and the previous opposition to these legal limitations.

### *Legal Limitations*

These legal limitations concern themselves with the language of speech, with its content and with its uses. Punishments for the language have been unusual. There were, of course, laws against swearing, profanity, and obscenity. In the United States such words were held to be criminal in themselves, moral nuisances rather than offenses against religion. There has been, however, an almost sure instinct against allowing speech to be restrained on account of mere form. For to demand a form approved by science or art would stop the mouths of the unlettered.

### *Discrimination by the Courts*

The courts have occasionally discriminated against speeches or writings for language alone, punishing the "coarse or vulgar" expression of sex facts, although permitting the dissemination of these identical facts in scientific phraseology. They have, on the other hand, sometimes contradicted this dictum in the field of art, and decided that the mere æsthetic value of a picture will not protect it from charges based on statutes aimed at the pornographic and obscene. With respect to languages, in 1791, few differences existed, and though there have been attempts since to require English for certain prescribed uses, or to forbid the use of a foreign language in public connections, freedom to use any tongue has been the rule.

### *The Sedition Act of 1798*

The chief limitations have been on the meaning of the words. The usual limitations enforced in England, and in part of the United States in 1791 were four in number: (1) Laws punishing words that injured a person or reputation, peace of mind, or purse, that is, spoken slander or printed libel. (2) Laws punishing reflections on the government, its head, or its officers, that is "seditious libel." This limitation, natural under a "divine right" king, has always been disputed here because the first amendment must have abolished such crimes. Despite this, the Sedition Act of 1798 was upheld by the lesser Federal Courts under common law doctrine; the Supreme Court enforced the war measure of 1918; and several

States have at various times enacted "sedition laws." (3) Laws punishing reflections upon the community's religion. In England such blasphemy was tried before the ecclesiastical courts as a crime against the established religion.

### *Two Types of Blasphemy*

There were two kinds: obscene blasphemy or attacks upon religion and morals; and seditious blasphemy which was regarded as an assault upon the King as a divine regent, head of both Church and State. Reflections upon his government were reflections upon God's wisdom and, therefore, blasphemous. (4) Laws punishing obscene words. In England obscenity had been originally a church crime since it concerned morals and salvation; but in the United States it was regarded as a nuisance, punishable as was blasphemy in certain States, for its possible effects in increasing vice and crime especially among the young.

### *The American Colonies and Libel Laws*

What these limitations meant in 1791 was largely a mixture of old laws mostly from England, and the contrary tradition, the latter struggling amid new popular conceptions arising from the democratic method. Plain libel was coming to be held a private matter, and the laws were slowly being liberalized. Two cardinal doctrines for freedom were being asserted, though their establishment in the States was a process of decades. These were that the jury and not the judge should decide whether words were actually libellous; and second, that the truth published for good motives should be admitted as an adequate defence against the charges of libel. Respecting sedition two views existed: the one, that even a popular government must have the right to punish words calculated to bring it into disrepute and perhaps overthrow; the other, that the citizen cannot be guilty of libelling the government he has created or the officers he has elected as his servants. Blasphemy was still punished as a crime in certain of the States, but the passing of an established church meant that the United States and soon the individual States would give up policing religious opinion unless accompanied by subversive acts. There was, however, a wide feeling that public morals were based on the Christian religion and that whatever tended to undermine the religious sentiments would also undermine respect for the law as an expression of morality. The punishment for obscenity was also based partly on this idea.

### *Limitations on Uses of Words*

Finally, the limitations upon the uses of words were of two kinds: first, that they must not produce crime or violence or tend to produce them; and second, that they must not be employed to further an unlawful conspiracy. The First Amendment was not held to protect incitement to violence, say by the leader of a mob even though no actual overt act resulted, nor the advocacy of assassination. The punishment is here primarily for conspiring, not for the words, which are merely the instruments. The conspiracy doctrine was not often invoked to suppress free speech at this date, that development coming later.

### *Unrestrained Utterances*

Absolute freedom of speech was limited also by the general idea of the natural dangers that may accompany

unrestrained utterances, particularly in conjunction with public assemblage, such as a panic from the spreading of false rumors, or a breach of the peace. The executive might forbid speech when as a result the hearers might be inspired to a riot, attack the speaker, or fall to fighting among themselves; or when they might come into conflict with the police or the rest of the community. The libertarian might object on the ground that sufficient force should be provided to protect a speaker and prevent breaches of the peace; but he had to admit that in practice such protection is not always possible. Sometimes there arises also a conflict of real interests, so that we cannot object to the New England laws which forbade a man, even out of sincere religious conviction, to interrupt a church service. The freedom of the worshippers, not his own, was at stake.

### *Modern Police Ordinances*

We may note that modern developments of this idea of conflict of interests exist in the police power ordinances aimed to insure the common good by forbidding street meetings that obstruct traffic, or by requiring that licenses be secured for the use of public places. The executive may then hold that the mere proposal to make certain remarks so clearly foreshadows public danger that he must deny the usual rights of assemblage and speech. This extension of power is manifestly full of dangers to liberty.

### *The Drafting of the Constitution*

Let us now turn to the ideals held by the American people about the time of drafting the Constitution. The makers certainly had an intense interest in freedom of speech on public matters, and in public methods. So the guarantee of free speech certainly meant the discussion of vital issues, not merely the private murmurings which though they may be the origin of public discontent, are not dangerous to authority. Public speech is the only manifestation that can be reached; and public speech needs the guarantee of freedom, for it generally voices some sort of conflict with the established order, and therefore tempts authority to suppress it. Public speech is the instrument by which the weak pleas of isolated individuals are transformed into the powerful demand of a strong group. It appears at a crisis and grows in power almost from the sound of its own voice. Its very effectiveness raises the cry that it be silenced.

### *The Colonists and the British Governors*

Americans in 1791 had for years defended their right to speak against the British governors. They had learned the value of frank speech both as an aid to winning their independence and as an essential principle of popular government. Free speech meant the right to criticize and complain, to canvass the acts of public officials, and to debate the merits of all candidates and measures. The people were determined that no new tyranny should ever stop them from meeting and talking over their grievances, nor from urging changes in their government, piece-meal or in its entirety. It belonged to them; there was no outside judge; the choice was theirs even if free speech advocated the overthrow of the government. It is curious to see how this identification of people and Government which in 1791 permitted the frankest criticism of the government had by 1917 developed into that tyranny of majority opinion that refused to permit the minority to question any act of the government. The modern

version of the Revolutionary doctrine would appear to be freedom of speech but for the majority only.

#### *Freedom of the Press in America*

Except for religious liberty, the clear and broad guarantee of freedom of the press is the most important contribution of America to civil liberty. Such freedom is not guaranteed in the English Constitution, but exists merely as an implied aspect of the absolute "rights of an Englishman." Cooley says:

"It is mentioned neither in the Petition of Rights nor in the Bill of Rights; of so little importance did it seem to those who were trying to redress grievances in those days."

Censorship had existed since the Star Chamber first feared the power of the printing-press, and against that censorship John Milton had thundered in his *Areopagitica*. The dangers of licensing are exemplified in one of the first Star Chamber decrees, thus:

#### *The British Star Chamber Decrees*

"That each printer must register; that no press be established outside of London save one at each great university; that the archbishop of Canterbury, the bishop of London, and others were to regulate the number of presses and printers; that with few exceptions, no book could be printed without license; that the Company of Stationers could enforce the act and imprison for punishment; that the number of apprentices was limited."

In the Seventeenth Century a member of Parliament was even refused the right to publish his own speeches.

#### *Lapse of the British Licensing Acts*

Freedom from censorship before publication was finally obtained when the last of the Licensing Acts was allowed to lapse in 1694, and the Commons refused for four successive years to concur with the Lords in renewing the law. Then the device of authority by which a judge rather than a jury was permitted to determine that a libel had been published, continued what may be called a post-publication censorship for another hundred years until George Fox secured the Libel Acts of 1792 (32 George III, c. 60), under which the jury judged the law as well as the facts. A second device, the imposition of taxes on newspapers, was invented in 1711 and endured until 1855, sadly hampering the growth of the popular newspaper in England.

#### *Struggles Against Censorship*

In similar struggles against censorships, against denials of the right of the jury to say what was libellous, and against destructive taxation, the American colonists learned the priceless value of a free press. But even before the Crown censorship, the Massachusetts theocracy exercised some local control over printing. The first press in America at Cambridge in 1639 was not free, but licensed. Religious books were censored for several decades. Quaker tracts were burned, and in 1661 a man was fined ten pounds merely for having in his possession a copy of John Lilburne's *Resurrection* and W. Duberrie's *Might Day of the Lord*. A volume by Thomas Maule was suppressed in Boston in 1695. He was tried for printed libel but acquitted, and from that time the manuscripts for books were submitted only in special cases. No general right of a free press was recognized, though the Colonists had to do their own amateur suppressing,

there being no extension of English censorships until 1662 when for several years the English Licensing Act of that date was enforced.

#### *Sir William Berkeley's Famous Statement*

The Crown governors next took a hand, and in 1671 Sir William Berkeley of Virginia made the remark that seems his chief claim to fame: "Thank God, we have neither free school nor printing-press, and I hope may not for a hundred years to come." Governor Effingham also of Virginia, received in 1683 instruction "to allow no person to use the printing-press on any occasion whatsoever." Finally in 1686 and for fifty years thereafter, all Colonial governors were given power over the press in their charters of instructions from the crown in these identical words:

"And for as much as great inconvenience may arise by the liberty of printing within our said territory under your government, you are to provide all necessary orders that no person keep any press for printing, nor that any book, pamphlet, or other matter whatsoever be printed without your especial leave and consent first obtained."

Resistance in several Colonies against this blanket power of censoring was one of the causes of the Revolution.

#### *America's First Newspaper Suppressed*

The first newspaper in America, *Publick Occurrences*, Boston, 1690, was suppressed after a single issue by the governor and council of Massachusetts, who declared their "high resentment and disallowance" of its publications on local and military matters. They declared that it came out contrary to law, and strictly forbade "anything in print without license first obtained from those appointed by the government to grant the same." The first printer in Pennsylvania was also commanded to print nothing without license from the council. He resisted, but discouraged by the struggle, left the Colony in 1693. In 1704 printing in Boston was still "under authority," and in 1711 Governor Hunter went so far as to seize all the copies of a representation by the popular Assembly.

#### *The Struggle in Massachusetts*

But by December 10, 1719, when Governor Shute ordered one printer not to print a remonstrance by the House, another one did and was not punished. This practically ended the censorship, though Shute tried to assert one again in 1721 only to meet with a long and defiant "Answer" by the House. In 1725 papers were ordered to drop "Published by Authority" because they were not under the control of authority. Five years later the blanket clause of 1686 was omitted from Governor Belcher's instructions. James Franklin was quick to profit by this growing tolerance for free writing, but in 1722 found himself in jail for insinuating that the government of Massachusetts was tolerating piracy. His sheet, the *Boston Courant*, at one time appeared under the name of sixteen-year-old Benjamin because its printer had filled it with the radical political views of the young American patriots.

#### *The Zenger Case of 1734*

The first real legal bulwark of freedom of the press was secured in New York in 1734 when the principle was established that the jury in libel trials shall judge

not only the fact that such a person has actually written or published certain words, but also the law as to whether the words and the whole circumstance of their appearance and application constitute a libel. Previously to that interpreting the law had been the powerful and dangerous privilege of the judge.

John Peter Zenger, publisher of the New York Journal, a Whig paper opposed to the Governor's party, printed two satirical political songs. The paper was presented before the Council and copies ordered burned by the sheriff. The grand jury refused to indict Zenger so he was arrested on a warrant from the Council. His two lawyer supporters were promptly disbarred, but they managed to enlist Andrew Hamilton, the greatest advocate of the day. By a masterly appeal to the jury over the head of the judge, he persuaded them that they had the right to determine the law as well as the facts, and they acquitted Zenger. Thus the power of the jury to protect a free press was established in America years before it was asserted in England. "The Liberty of the press was secure from assaults and the people became equipped with the most powerful weapon for successfully combatting arbitrary power."

"Exemption from the intervention of a Licensor before the act of printing was an important step . . . but it did not at once secure that measure of liberty which is the only true freedom of the press—exemption from arbitrary persecution; the benefit of just libel laws; and the acknowledged right of every person to use the press for reasonable discussion of all matters of public concern."

### "The Bulwark of Liberty"

The American press now grew constantly stronger. In 1747 when Governor Clinton of New York forbade the reprinting in the Gazette of a remonstrance by the Assembly, the latter declared his act arbitrary and illegal. By 1768 there was practically an untrammelled press, and soon the Massachusetts House declared: "The liberty of the Press is the Bulwark of the liberty of the people."

The first national declaration of the value of the freedom of the press was made by the First Continental Congress in the Address to the Inhabitants of Quebec, October 28, 1774.

This reveals that while the Revolutionary fathers recognized the value of the press in spreading knowledge, they were more interested in it as a means of unifying the people and extending their control over government.

The first appearance of the free press ideal in an American constitution was in the rhetorical Article XII of the Virginia Declaration of Rights,—"The freedom of the press is one of the great bulwarks of liberty and can never be restrained but by despotic governments." Most of the other States made similar declarations. Respecting the Federal guarantee, we may note that Charles Pinckney submitted a number of propositions to the Constitutional Convention on August 20, 1787, among them a guarantee that the liberty of the press be inviolably preserved. September 14, Pinckney and Gerry moved a similar declaration, but the motion was lost, Mr. Sherman remarking: "It is unnecessary. The power of Congress does not extend to the press." Popular demand finally incorporated the guarantee in the First Amendment to the Constitution.—*Extracts, see 3, pg. 64.*

## State Laws Relating to Obscene Literature

### A Digest of Legislative Enactments Covering Publication and Dissemination of Obscene Books, Periodicals and Pictures

**Alabama**—For posting or distributing publicly any obscene writing, a fine of not less than \$10 nor more than \$50.

For selling obscene literature, a fine of not less than \$50 nor more than \$1000.

**Arizona**—Handling obscene literature is a misdemeanor. Penalty not fixed.

**Arkansas**—Distributing or exposing obscene literature is a misdemeanor punishable by a fine of not less than \$100 and not more than \$300 for the first offense and not less than \$500 nor more than \$1,000 for the second offense.

**California**—See Arizona.

**Colorado**—Importing for sale or selling obscene literature or pictures, a fine not less than \$25 nor more than \$200.

For exhibiting, distributing, publishing, possessing or advertising obscene literature or pictures, indecent or im-

moral details of crime calculated to corrupt public morals—a misdemeanor—fine not less than \$20 nor more than \$2,000, with costs of court, or imprisoned in the county jail for not less than one month nor more than one year, or both; not to affect teaching or medical books in medical schools or the practice of regular practitioners of medicine or druggists in their legitimate business.

For depositing in the Post Office or conveying—a misdemeanor—fined not less than \$20 nor more than \$2,000 or imprisoned at hard labor in the penitentiary not less than one month, nor more than one year, or both.

**Connecticut**—Buying, distributing, advertising, exhibiting, or preparing of obscene literature or pictures or publications made up principally of criminal news—imprisonment for not more than two years or fine not more than \$1,000, or both.

**Delaware**—Publishing or distributing obscene literature or pictures tending to corruption of morals of youth—guilty of misdemeanor and punishable by a fine not exceeding \$100.

**Florida**—Importing, publishing, exhibiting, distributing, buying, or possessing obscene literature or pictures—punishable by imprisonment in the State prison, not exceeding five years, or in the county jail not exceeding one year, or by fine not exceeding \$100.

**Georgia**—Importing, distributing, exhibiting, advertising, or publishing obscene literature—guilty of misdemeanor—penalty not fixed.

**Idaho**—Preparing, distributing, exhibiting, advertising obscene literature—guilty of misdemeanor—penalty not fixed.

**Illinois**—Importing, distributing, possessing, advertising or preparing obscene literature—confined in county jail not more than six months or be fined not less than \$100 nor more than \$1,000 for each offense.

Depositing in Post Office or sending obscene literature or advertisements of it—for each offense, the same fine as above.

**Indiana**—Preparing, distributing, exhibiting, possessing or advertising obscene literature—fine not less than \$10 nor more than \$500, to which may be added imprisonment in the county jail not less than 10 days nor more than 6 months. Not to apply to teaching or medical books in medical colleges, or the practice of regular practitioners of medicine or druggists in their legitimate business.

Depositing in Post Office or sending obscene literature or advertisement of it—fine not less than \$5 nor more than \$500, to which may be added imprisonment in the county jail not less than 10 days nor more than 6 months.

Distributing, preparing literature recording or displaying the commission of crime or obscene pictures—fine not less than \$10 nor more than \$200, to which may be added imprisonment in the county jail not exceeding 90 days.

**Iowa**—Importing, preparing, distributing, possessing or exhibiting obscene literature or obscene pictures—imprisonment in the penitentiary not more than one year, or fine not exceeding \$1,000.

Depositing in Post Office or sending, advertising or conveying obscene literature or obscene pictures—fine not more than \$1,000, nor less than \$50, or be imprisoned in the county jail not more than one year, or both.

Distributing, having in possession to distribute or exhibit literature principally made up of accounts of crime or pictures of immoral deeds, lust or crime—fine not more than \$500 nor less than \$50, or be imprisoned not more than 6 months in the county jail or both.

Not to apply to teaching in medical schools and medical books or regular practitioners of medicine or druggist in their regular business.

**Kansas**—Importing, distributing, advertising, exhibiting, or preparing obscene literature or literature devoted to criminal news or pictures—guilty of misdemeanor—fine not less than \$5 nor more than \$300, or be imprisoned not to exceed 30 days or both.

**Kentucky**—Distributing, preparing, or importing literature the chief feature of which is to record the commission of crime or pictures of criminals, criminal deeds, obscene pictures, or pictures of persons under the influence of alcohol or drugs—fine not less than \$25 and not more than \$200.

Does not apply to scientific publications.

**Louisiana**—Importing, distributing, possessing, exhibiting, advertising, or preparing obscene literature—guilty

of misdemeanor and punishable by fine and imprisonment or both at the discretion of the court.

**Maine**—Importing, preparing, distributing, possessing obscene literature—imprisonment in the State prison not exceeding 5 years, or imprisonment in the jail not exceeding 2 years, and fine not exceeding \$1,000 nor less than \$100.

Distributing, exhibiting to minors literature made up principally of criminal news or pictures of lust or crime—imprisonment in the county jail not more than 6 months, a fine of not less than \$25 nor more than \$100, or by both imprisonment and fine.

**Maryland**—Issuing a paper containing obscene matter—fine of not less than \$20, nor more than \$200 and imprisonment for not less than 10 days nor more than 1 year.

Importing, distributing, exhibiting, advertising or preparing obscene literature—guilty of misdemeanor, punishable by fine not exceeding \$200 or imprisonment not exceeding one year, or both fine and imprisonment in the discretion of the Court.

Distributing, exhibiting, advertising to minors literature made up principally of criminal records—guilty of misdemeanor punishable by fine not exceeding \$200, or shall be imprisoned not exceeding one year, or be both fined and imprisoned in the discretion of the court.

**Massachusetts**—See Maine, 1st paragraph—Penalty, imprisonment for not more than 2 years and fine not less than \$100 nor more than \$1,000.

Distributing, having in possession to distribute, or exhibit publicly literature principally made up of criminal records or pictures of lust or crime—punishable by imprisonment for not more than 2 years or fine of not less than \$100 nor more than \$1,000.

**Michigan**—Distributing to minors obscene literature, obscene pictures or literature containing criminal records—guilty of misdemeanor.

Exhibiting publicly obscene literature or pictures or literature containing criminal records—guilty of misdemeanor.

See Maine—Imprisonment in county jail not more than one year, or by fine not exceeding \$1,000.

**Minnesota**—Regular production or circulation of obscene or defamatory literature—guilty of a nuisance and may be enjoined from conducting or maintaining such nuisance.

Court may punish by fine of not more than \$1,000 or by imprisonment in the county jail for not more than 12 months.

Distributing, possessing for distribution, advertising, preparing, exhibit publicly, obscene literature—guilty of misdemeanor—imprisonment in the county jail for not more than 1 year nor less than 90 days, or fine not less than \$100 nor more than \$500, or both.

Depositing in Post Office or sending obscene literature—guilty of a misdemeanor.

**Mississippi**—Selling obscene matter excluded from United States mails—penalty, fine not less than \$10 nor more than \$100 or imprisonment not to exceed 30 days or both. Each day such literature shall be offered for sale shall constitute a separate offense.

Distributing, advertising obscene literature—guilty of a misdemeanor—fine of not over \$500 or imprisonment in the county jail for not more than 6 months, or both.

**Missouri**—Publishing, distributing or possessing for distribution obscene literature—guilty of felony—impris-

onment in the penitentiary for a term of not less than 2 nor more than 5 years.

Distributing, exhibiting, or possessing for distribution literature made up principally of criminal reports—guilty of misdemeanor—fine not exceeding \$100 or imprisonment in county jail not to exceed 6 months or both.

Not to apply to teaching in medical schools, medical books, or regular practitioners of medicine or druggists in their legitimate business.

*Montana*—Distributing, exhibiting, possessing for distribution, advertising to minors, under 16, obscene literature or pictures or literature or pictures devoted principally to criminal records—guilty of a misdemeanor.

Preparing, exhibiting, distributing, or advertising obscene literature—guilty of misdemeanor—penalty not fixed.

*Nebraska*—See *Iowa*.

Not to apply to teaching in medical schools or medical publications or regular practitioners of medicine or druggists in their legitimate business.

*Nevada*—Exhibiting within view of minors, distributing, possessing to distribute, preparing, advertising obscene literature or pictures of criminal deed—guilty of a gross misdemeanor—penalty not fixed.

*New Hampshire*—Preparing, distributing, exhibiting or advertising obscene literature or literature principally made up of criminal reports—fine not more than \$100, or imprisonment not more than 6 months, or both.

*New Jersey*—Exhibiting (without just cause), possessing to exhibit or sell obscene literature—guilty of misdemeanor—see *Nebraska*.

*New Mexico*—Distributing, exhibiting, possessing to distribute or exhibit obscene literature or pictures prohibited.

*New York*—Distributing, exhibiting, possessing to exhibit or distribute, advertising, preparing obscene literature or literature or pictures principally devoted to criminal deeds—guilty of a misdemeanor—sentence not less than 10 days not more than 1 year imprisonment or fine not less than \$50 nor more than \$1,000, or both.

Depositing in Post Office, sending or transporting the above—guilty of a misdemeanor.

*North Carolina*—Exhibiting, or distributing obscene literature—guilty of a misdemeanor.

Selling or circulating any publication excluded from the United States mails—guilty of a misdemeanor.

*North Dakota*—Preparing, distributing or exhibiting obscene literature—guilty of a misdemeanor.

Advertising or possessing to exhibit or distribute to a minor child literature principally made up of criminal news or pictures of criminal deeds—guilty of a misdemeanor.

Punishment—Imprisonment in county jail not exceeding six months or fine not exceeding \$500.

Importing obscene literature or literature about crime—fine not less than \$5 and not more than \$100, or imprisonment in a county jail not to exceed 30 days, or both.

*Ohio*—Distributing, exhibiting, preparing, advertising obscene literature or literature made up principally of criminal records or pictures of criminal deeds—fine not less than \$50 nor more than \$2,000, or imprisonment not more than 5 years, or both.

Depositing in Post Office or sending any of above—fine, not less than \$50 nor more than \$1,000 or imprisonment for not more than 1 year, or both.

Not to affect teaching in medical schools, medical

books, or regular practitioners of medicine or druggists in their legitimate business.

*Oklahoma*—See *North Dakota*.

*Oregon*—Importing, preparing, distributing, exhibiting, advertising or possessing for these purposes obscene literature or literature relating to criminal exploits—penalty, imprisonment in county jail not more than 6 months, or fine of not more than \$500 or both.

*Pennsylvania*—Distributing, exhibiting, advertising, possessing for such purposes, literature devoted to criminal records or pictures of lust or crime—guilty of a misdemeanor—fine not exceeding \$500, imprisonment not more than 2 years.

Importing obscene literature—guilty of a misdemeanor—fine not exceeding \$500 and imprisonment not exceeding one year.

Preparing obscene literature or literature devoted to criminal deeds—guilty of a misdemeanor—not more than 1 year imprisonment, or fine not more than \$1,000, or both for each offense.

*Rhode Island*—See *Maine*, Paragraph 1. Penalty—Imprisonment not exceeding 2 years or fine not exceeding \$1,000 nor less than \$100.

*South Carolina*—Importing, preparing, distributing or possessing obscene literature—imprisonment not exceeding 2 years, or fine not exceeding \$1,000 or both.

*South Dakota*—See *North Dakota*.

*Tennessee*—Preparing, distributing, importing, possessing for distribution or exhibition—guilty of a misdemeanor—penalty not fixed.

*Texas*—Preparing obscene literature or pictures—fine not more than \$100.

Distributing obscene literature—guilty of a felony—imprisonment in penitentiary for a term of not less than 2 or more than 5 years.

*Utah*—See *North Dakota*.

*Vermont*—Importing, preparing, distributing, exhibiting, possessing for such purposes, obscene literature or pictures—imprisonment not more than one year or fine not more than \$200.

*Virginia*—Importing, distributing, exhibiting, using, possessing for such purposes obscene literature—guilty of a misdemeanor. Penalty not fixed.

*Washington*—See *Nevada*.

Preparing obscene literature or literature containing accounts of several crimes, accounts of execution of criminals, obscene details of evidence in trial accounts of prostitutes—guilty of a misdemeanor.

*West Virginia*—Importing, preparing, distributing, possessing for such purposes or exhibition of obscene literature or pictures—confined in jail not more than 1 year and fined not exceeding \$200.

*Wisconsin*—Importing, preparing, exhibiting, distributing, possessing obscene literature or pictures—imprisonment in county jail not more than one year or by fine not exceeding \$500.

Distributing, exhibiting, possessing for such purposes literature devoted principally to accounts of criminal deeds or pictures of such deeds—guilty of a misdemeanor—fine of not less than \$50 nor more than \$500.

*Wyoming*—See *Indiana*. Penalty—fine of not more than \$100, to which may be added imprisonment in the county jail not more than 6 months.

Depositing in Post Office or sending or advertising obscene literature—fine not more than \$100, to which may be added imprisonment in the county jail not more than 6 months.—*Extracts, see 4, pg. 64.*

## *The U. S. Customs Service and its Censorship of Foreign Publications*

### Existing Laws and Procedure Covering the Prohibiting of Importation of Immoral Books and Articles

by Hon Seymour Lowman

*Assistant Secretary of the Treasury (In Charge of Customs)*



SECTION 305 of the Tariff Act of 1922 prohibits all persons from importing into the United States from any foreign country any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing or other representation, figure or image on or of paper, or other material. Customs officers are directed to seize all such prohibited articles and proceed against them as provided in the statute. Section 211 of the U. S. Criminal Code (Section 334, Title 18, U. S. Code) forbids the transportation in the mails or the depositing therein or the taking therefrom for the purpose of circulating or disposing thereof any obscene or filthy book. Section 245 of the Criminal Code (Section 396, Title 18, U. S. Code) makes it a criminal offense to bring or cause to be brought into the United States any obscene book or anything designed, adopted or intended for preventing conception, or any book giving information directly, or indirectly, or how or of whom, or by what means, any of the hereinbefore mentioned articles, matters or things may be obtained or made. Penalties for violations of the two sections of the U. S. Criminal Code, referred to are fixed at not more than \$5,000 fine, or imprisonment for not more than five years, or both.

#### *The Stockholm Postal Convention*

Article 41 of the Postal Convention of Stockholm of 1924, now in effect, provides for the destruction of obscene matter "on the spot," by the country to which it is sent. The Postmaster General, however, has adopted as Paragraph 1, Section 626 of the Postal Laws and Regulations of 1924, Section 305 of the Tariff Act of 1922. Consequently, importations of obscene matter in the mails are turned over to Collectors of Customs by receiving postmasters.

Section 593 (b) of the Tariff Act of 1922, provides that if any person fraudulently or knowingly imports or brings into the United States, or assists in so doing, any merchandise, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law, such merchandise shall be forfeited, and the offender shall be fined in any sum not exceeding \$5,000, nor less than \$50.00, or be imprisoned for any time not exceeding two years, or both.

#### *The Present Customs Law*

It will be seen that the law imposes upon Collectors of Customs the duty of detaining and proceeding against obscene books and publications. Such articles may be received from foreign countries through the mails or otherwise, at the various ports throughout the country. After the customs officer has decided that a book is in fact obscene he makes formal seizure thereof, notifies the consignee or addressee, and advises him of his right to file with the Collector a protest in writing within 60 days from the date thereof, and also of his right to file a petition with the Secretary of the Treasury asking for remission of any forfeiture incurred. In the event a protest is filed it is forwarded to the U. S. Customs Court for hearing and determination. The consignee is also informed that if he does not take advantage of his rights under the law, or waives his rights and consents to the forfeiture of the merchandise, the matter will be referred to the United States Attorney with request that proceedings be instituted in the U. S. District Court looking to the condemnation and destruction of the goods. The consignee may appear and contest such proceedings if he so desires.

#### *Powers of the Secretary of the Treasury*

Section 514 of the Tariff Act provides that the Collector's decision shall be final and conclusive, unless the importer shall within 60 days from the date thereof file a protest in writing with the Collector of Customs setting forth distinctly and specifically the reasons for the objection thereto. Section 618 of the Tariff Act authorizes the Secretary of the Treasury to remit or mitigate any fine, penalty or forfeiture incurred under the Act, upon such terms and conditions as he deems reasonable and just if he finds that such fine, penalty or forfeiture was incurred without willful negligence, or without any intention on the part of the petitioner to violate the law.

In order to secure uniformity of action on the part of the various Collectors they are required to send to the Bureau a duplicate copy of reports of seizures. The items on the reports are compiled into lists which are furnished all Collectors in order that each may be informed as to the action of all the others with respect to the volumes enumerated. The lists are not binding upon Collectors. It is recognized that opinions of the customs

officers may differ as to the admissibility of the same entitled volume. In such case the matter is submitted to the Bureau where decision is made as between the conflicting opinions of the Collectors. It is well known that books bearing the same titles may differ widely as to text; that is, an expurgated copy of a volume formerly held objectionable might be admissible to entry. It is estimated that approximately five per cent of the cases involving seizures by Collectors reach the Department. Relatively few cases are appealed to the courts so far as the records show. Consequently, the great mass of obscene matter detained by Collectors of Customs is disposed of by them.

#### *Provisions of the Law Are Specific*

The Department is not unmindful of the difficulty often experienced in making a fair administrative ruling in individual cases, as to whether or not a book is obscene or indecent. The reports show that even the decisions of the courts are not uniform with respect to the elements constituting legal obscenity. The law makes no exception in favor of the so-called classics or works of the leading writers of the day; books that may be of value to collectors, antiquarians, or others, and such are not admitted to entry without regard to their character. It will be seen that the laws are rigid and forbid all persons from importing any obscene book.

#### *What the Courts Have Decided*

The foregoing provisions of law are comprehensive and are unambiguous when once it is determined that a book is in fact obscene. The Department is constantly confronted with this question, as there are many border line cases, but it is convinced that in view of the many decisions of learned jurists, a number of which are not in accord, that in the last analysis whether or not a book is obscene is a matter for determination by the United States Courts. Recognizing this, the Department has had recourse to judicial interpretations of the statutes and other decisions of the United States Courts. In the case of *Rosen v. U. S.* (161 U. S. 29) Justice Harlan said that the test of obscenity is whether the tendency of the matter is to deprave and corrupt the morals of those who are open to such influence into whose hands the matter may fall, "Would it suggest or convey lewd thought and lascivious thoughts to the young and inexperienced? Everyone who uses the mails of the United States for carrying papers or publications must take notice of what, in this enlightened age, is meant by decency, purity and chastity in social life, and what must be deemed obscene, lewd and lascivious." Many other courts have followed practically the same reasoning; notably, *U. S. v. Harmon* (45 Fed. 418); *U. S. v. Bennett* (16 Blatch. 338); *U. S. v. Britton* (17 Fed. 731); *U. S. v. Clark* (30 Fed. 500, 733 and 734). It would be impossible to restrict the use of objectionable books once they enter the commerce of the U. S. Concerning the matter of censorship, and referring to the Bill of Rights, the U. S. Supreme Court in the case of *Robertson v. Baldwin* in 1896, declared that "the freedom of speech and of the press does not permit the publication of libels, blasphemous and indecent articles or other publications injurious to public morals and private reputation."

#### *The Importers' Right of Appeal*

It is, of course, not possible to prescribe for Collectors of Customs rules and tests to cover the diversified classes of obscene matter which are being received at the various ports in increasing volume. However, when specific cases are submitted to the Department for ruling the matters are passed upon by several officials learned in the law, and who have specialized in the particular field. While it is but natural that mistakes of judgment should occur and differences of opinions arise with regard to a given publication such discrepancies may be pardonable in view of the diverse opinions of the courts both Federal and State on questions of legal obscenity. It may be recalled that irrespective of the Department's decision the importer still has the right to appeal to the United States Courts.

Sections of committee reports and published debates available reveal practically nothing to show the intent of Congress in passing the various legislative acts restricting the traffic in obscene matter. Such proposed legislation having for its object the protection of the public morals, probably would not meet with objection or adverse comment.

#### *The Tariff Act of 1842*

The Tariff Act of August 30, 1842 (Section 28), contains perhaps the first definite prohibition against the importation of obscene printed matter, to the effect that "the importation of all indecent and obscene prints, paintings, lithographs, engravings, and transparencies is hereby prohibited." The Act of March 3, 1873, entitled "An Act for the Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use," amended Section 148 of the Statutes relating to the Post Office Department approved June 8, 1872, and forbade the transportation in the mails of obscene books, envelopes, post cards or articles designed to prevent conception, etc., and provided a penalty for violations thereof. This provision of the law was in substance embodied in Section 3893 of the Revised Statutes and in Section 211 of the U. S. Criminal Code (Act March 4, 1909, 35 Stat. 1129).

#### *The Act of 1873*

Sections 3, 4 and 5 of the Act of March 3, 1873, forbidding the importation of obscene literature; the detention thereof by customs officers; providing a penalty upon government officers knowingly aiding in any violation of the Act, and for search and seizure of such obscene articles, in amended form were carried in Sections 1785, 2491 and 2492 of the Revised Statutes. The foregoing sections of the Revised Statutes were embodied in the Tariff Act of March 3, 1883; Section 1785 becoming Section 2492 of the Tariff Act; Section 2491 remaining Section 2491 and Section 2492 being designated Section 2493 of the Tariff Act. The provisions of Section 305 of the Tariff Act of 1922 are substantially the same with respect to obscene matter.

Section 245 of the Criminal Code forbidding the importation, or transportation in the interstate commerce, of obscene books is based on amendments to the Acts of February 8, 1897 (29 Stat. 512) and of February 8, 1905 (33 Stat. 705). The provision of law is contained in the Act of March 4, 1909 (35 Stat. 1129).

## Free Speech and Censorship in American Law

Control by Federal authorities of the United States of publications characterized as obscene is considered to have begun with the Tariff Act of 1842, which contained a provision prohibiting the importation of obscene matter. The Postal Law of 1873 contained a provision prohibiting the transmission of obscene matter through the mails.

The Postoffice Department and the Treasury Department are the only Government agencies authorized to pass upon the character of printed matter. United States attorneys, as officers of the Department of Justice, are called upon to handle cases growing out of these restrictions by the Postoffice and Treasury Departments when the cases are brought before the Federal Courts.

The Copyright law makes no provision for censorship by the Copyright Office. When, however, a book or picture is presented for registry which officials of the Copyright Office consider unmailable under the postal laws, it is returned to the author or publisher with a notice to that effect. This rarely occurs with books but frequently occurs with pictures.

Having no legal authority to deny the registry of copyright on the grounds of obscenity or sedition the Copyright Office can merely notify the author or publisher that even if copyrighted, his proposed publication will be denied circulation through the mails.

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### The Declaration of Independence

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence,

indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government.

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### The Constitution of the United States

*Article 1, Sec. 8*—The Congress shall have the Power  
*Par. 7*—To establish Post Offices and post Roads.

*Par. 18*—To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

*Article III, Sec. 3, Par. 1*—Treason against the United States, shall consist only in levying War against them, or, in adhering to their Enemies, giving them Aid and Com-

fort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

*Amendment I*—Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

*Amendment V*—No person shall be...deprived of life, liberty or property without due process of law.

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### Federal Statutes from 1842 to the Present

#### *Tariff Act of 1842*

Section 28—And be it further enacted, That the importation of all indecent and obscene prints, paintings, lithographs, engravings, and transparencies is hereby prohibited; and no invoice or package whatever, or any part thereof, shall be admitted to entry, in which any such

articles are contained; and all invoices and packages whereof any such article shall compose a part, are hereby declared to be liable to be proceeded against, seized, and forfeited, by due course of law, and the said articles shall be forthwith destroyed.

**Postal Act of 1873**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whoever, within the District of Columbia or any of the Territories of the United States, or other place within the exclusive jurisdiction of the United States, shall sell, or lend, or give away, or in any manner exhibit, or shall offer to sell, or to lend, or to give away, or in any manner to exhibit, or shall otherwise publish or offer to publish in any manner, or shall have in his possession, for any such purpose or purposes, any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article whatever, for the prevention of conception, or for causing unlawful abortion, or shall advertise the same for sale, or shall write or print, or cause to be written or printed, any card, circular, book, pamphlet, advertisement, or notice of any kind, stating when, where, how, or of whom, or by what means, any of the articles in this section hereinbefore mentioned, can be purchased or obtained, or shall manufacture, draw, or print, or in any wise make any of such articles, shall be deemed guilty of a misdemeanor, and, on conviction thereof in any court of the United States having criminal jurisdiction in the District of Columbia, or in any Territory or place within the exclusive jurisdiction of the United States, where such misdemeanor shall have been committed; and on conviction thereof, he shall be imprisoned at hard labor in the penitentiary for not less than six months nor more than five years for each offense, or fined not less than one hundred dollars nor more than two thousand dollars, with costs of court.

Section 2—That section one hundred and forty-eight of the act to revise, consolidate and amend the statutes relating to the Post Office Department, approved June eighth, eighteen hundred and seventy-two, be amended to read as follows:

"Section 148. That no obscene, lewd, or lascivious book, pamphlet, picture, paper, print, or other publication of an indecent character, or any article or thing designed or intended for the prevention of conception or procuring of abortion, nor any article or thing intended or adapted for any indecent or immoral use or nature, nor any written or printed card, circular, book, pamphlet, advertisement or notice of any kind giving information, directly or indirectly, where, or how, or of whom, or by what means either of the things before mentioned may be obtained or made, nor any letter upon the envelope of which, or postal-card upon which indecent or scurrilous epithets may be written or printed, shall be carried in the mail, and any person who shall knowingly deposit, or cause to be deposited, for mailing or delivery, any of the hereinbefore-mentioned articles or things, or any notice, or paper containing any advertisement relating to the aforesaid articles or things, and any person who, in pursuance of any plan or scheme for disposing of any of the hereinbefore-mentioned articles or things, shall take or cause to be taken, from the mail any such letter or package shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall, for every offense, be fined not less than one hundred dollars nor more than five thousand dollars, or imprisoned at hard labor not less than one year nor more than ten years, or both, in the discretion of the judge."

Section 3—That all persons are prohibited from im-

porting into the United States, from any foreign country, any of the hereinbefore-mentioned articles or things, except the drugs hereinbefore-mentioned, when imported in bulk, and not put up for any of the purposes before mentioned; and all such prohibited articles in the course of importation shall be detained by the officer of customs, and proceedings taken against the same under section five of this act.

Section 4—That whoever, being an officer, agent, or employee of the Government of the United States, shall knowingly aid or abet any person engaged in any violation of this act, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall, for every offense, be punished as provided in section two of this act.

Section 5—That any judge of any district or circuit court of the United States, within the proper district, before whom complaint in writing of any violation of this act shall be made, to the satisfaction of such judge, and founded on knowledge or belief, and, if upon belief, setting forth the grounds of such belief, and supported by oath or affirmation of the complainant, may issue, conformably to the Constitution, a warrant directed to search for, seize, and take possession of any such article or thing hereinbefore mentioned, and to make due and immediate return thereof, to the end that the same may be condemned and destroyed by proceedings, which shall be conducted in the same manner as other proceedings in case of municipal seizure, and with the same right of appeal or writ of error; Provided, That nothing in this section shall be construed as repealing the one hundred and forty-eighth section of the act of which this act is amendatory, or to affect any indictments heretofore found for offenses against the same, but the said indictments may be prosecuted to judgment as if this section had not been enacted.

**Tariff Act of 1890**

Section 11—All persons are prohibited from importing into the United States from any foreign country any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article whatever, for the prevention of conception, or for causing unlawful abortion. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles shall be proceeded against, seized, and forfeited by due course of law. All such prohibited articles and the package in which they are contained in the course of importation shall be detained by the officer of customs, and proceedings taken against the same as prescribed in the following section, unless it appears to the satisfaction of the collector of customs that the obscene articles contained in the package were enclosed therein without the knowledge or consent of the importer, owner, agent, or consignee: *Provided*, that the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this section.

Section 12—That whoever, being an officer, agent, or employee of the Government of the United States, shall knowingly aid or abet any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or means for preventing conception or procuring abortion, or other articles of indecent or immoral

use or tendency, shall be deemed guilty of a misdemeanor, and shall for every offense be punishable by a fine of not more than five thousand dollars, or by imprisonment at hard labor for not more than ten years or both.

Section 13—That any judge of any district or circuit court of the United States, within the proper district, before whom complaint in writing of any violation of the two preceding sections is made, to the satisfaction of such judge, and founded on knowledge or belief, and if upon belief, setting forth the grounds of such belief and supported by oath or affirmation of the complainant may issue, conformably to the Constitution a warrant directed to the marshal or any deputy marshal, in the proper district, directing him to search for, seize, and take possession of any such article or thing mentioned in the two preceding sections, and to make due and immediate return thereof to the end that the same may be condemned and destroyed by proceedings, which shall be conducted in the same manner as other proceedings in the case of municipal seizure, and with the same right of appeal or writ of error.

#### **Tariff Act of 1922**

Section 305—(a) That all persons are prohibited from importing into the United States from any foreign country any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article whatever for the prevention of conception or for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles shall be proceeded against, seized, and forfeited by due course of law. All such prohibited articles and the package in

which they are contained shall be detained by the officer of customs, and proceedings taken against the same as hereinafter prescribed, unless it appears to the satisfaction of the collector that the obscene articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee: *Provided*, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subsection.

(b) That any officer, agent, or employee of the Government of the United States who shall knowingly aid or abet any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, (shall be deemed guilty of a misdemeanor, and shall for every offense be punishable by a fine of not more than \$5,000, or by imprisonment at hard labor for not more than ten years, or both.)

(c) That any district judge of the United States, within the proper district, before whom complaint in writing of any violation of subdivision (a) or (b) of this section is made, founded upon probable cause and supported by oath or affirmation of the complainant, may issue, conformably to the Constitution, a warrant directed to the United States marshal or deputy marshal in the proper district or to a duly accredited customs officer, directing him to search for, seize, and take possession of any article or thing mentioned in such subdivisions, and to make due and immediate return thereof, to the end that the same may be condemned and destroyed by proceedings, which shall be conducted in the same manner as other proceedings in the case of municipal seizure, and with the same right of appeal or writ of error.

#### **The Pending Tariff Bill**

*The Tariff Bill, as passed by the House May 28, 1929, amended Section 305 of the Tariff Act of 1922 (the existing law) by substituting the following:*

Section 305. Immoral articles—Importation prohibited: (a) Prohibition of importation: All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason, insurrection or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon the President of the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article whatever for the prevention of conception or for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the collector that the obscene articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the

package in which such articles are contained, shall be subject to seizure and forfeiture under the customs laws: *Provided*, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision.

(b) Penalty on Government officers: Any officer, agent, or employee of the Government of the United States who shall knowingly aid or abet any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or books, pamphlets, papers, writings, advertisements, circulars, prints, pictures or drawings containing any matter advocating or urging treason, insurrection, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon the President of the United States, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, shall be deemed guilty of a misdemeanor, and shall for every offense be punishable by a fine of not more than \$5,000, or by imprisonment at hard labor for not more than 10 years, or both.

### The Cutting Amendment

The amendment to Section 305 offered by Senator Bronson Cutting, N. Mex., R., came up for consideration on October 10, 1929. The Senate Committee on Finance had so amended Section 305 as it came from the House that the provisions of the section covering "any threat to take the life of the President of the United States" were made applicable to "any citizen of the United States." It was during the discussion of the Senate Committee amendment that Senator Cutting's amendment was adopted.

The Cutting amendment was adopted by a vote of 38 to 36, on October 11, with 21 Senators not voting, by the Senate sitting as a committee of the whole. Under the rules of the Senate all amendments may again be voted on when the Senate arises as a committee of the whole and votes, as the Senate, on the final passage of the bill.

It is under this rule that Senator Smoot, Utah, R., Chairman of the Finance Committee, served notice upon the adoption of the Cutting Amendment, that he would ask for reconsideration of the amendment when the final vote is taken.

(a) Prohibition of importation: The importation of all indecent and obscene prints, paintings, lithographs, engravings, drawings, post cards, transparencies, photographs, photographic plates, advertisements, casts, instruments, and other articles of an immoral nature, and of all drugs or medicines, and all articles whatever, for the prevention of conception, or for causing unlawful abortion, and any book, pamphlet, paper, writing, advertisement, circular, print, picture or drawing urging forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, and all lottery tickets and all printed papers that may be used as lottery tickets, and all advertisements of any lottery is hereby prohibited. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles and, unless it appears to the satisfaction of the collector that the obscene articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained shall be subject to seizure and forfeiture under the customs laws: *Provided*, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision.

(b) Penalty on Government officers: Any officer, agent, or employee of the Government of the United States who shall knowingly aid or abet any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail indecent or obscene prints, paintings, lithographs, engravings, drawings, post cards, transparen-

cies, photographs, photographic plates, advertisements, casts, instruments, and other articles of an immoral nature, or drugs or medicines, or any articles whatever, for the prevention of conception or for causing unlawful abortion, or lottery tickets or printed papers that may be used as lottery tickets, or advertisements of any lottery shall be deemed guilty of a misdemeanor and shall for every offense be punishable by a fine of not more than \$5,000 or by imprisonment at hard labor for not more than 10 years, or both.

#### YEAS—38

Black	Dill	King	Steck
Blaine	Fletcher	La Follette	Thomas, Okla.
Borah	Frazier	McKellar	Tydings
Bratton	George	McMaster	Wagner
Brookhart	Gillett	Norris	Walcott
Broussard	Glenn	Pine	Walsh, Mass.
Caraway	Hawes	Pittman	Walsh, Mont.
Connally	Hayden	Ransdell	Wheeler
Couzens	Howell	Robinson, Ark.	
Cutting	Johnson	Simmons	

#### NAYS—36

Allen	Greene	Oddie	Shortridge
Barkley	Hale	Overman	Smith
Blease	Hastings	Patterson	Smoot
Brock	Hatfield	Phipps	Steiner
Capper	Heflin	Reed	Thomas, Idaho
Deneen	Keyes	Robinson, Ind.	Trammell
Fess	McNary	Sackett	Vandenberg
Goff	Metcalf	Schall	Warren
Goldsborough	Moses	Sheppard	Watson

#### NOT VOTING—21

Ashurst	Glass	Kean	Swanson
Bingham	Gould	Kendrick	Townsend
Burton	Harris	Norbeck	Waterman
Copeland	Harrison	Nye	
Dale	Hebert	Shipstead	
Edge	Jones	Stephens	

### Foreign Treaties on Obscene Publications

Cooperation on the part of the United States with foreign nations for the suppression of the distribution of obscene publications is provided for in the Arrangement of Paris of 1910 and the Universal Postal Union Convention of Stockholm, August 28, 1924. The Universal Postal Convention of London, 1929, has not yet been ratified. It contains the same provisions covering obscene publications as the Stockholm Convention.

#### The Paris Arrangement of 1910

Each one of the Contracting Powers undertakes to establish or designate an authority charged with the duty of

(1) Centralizing all information which may facilitate the tracing and repressing of acts constituting infringements of their municipal law as to obscene writings, drawings, pictures or articles, and the constitutive elements of which bear an international character.

(2) Supplying all information tending to check the importation of publications or articles referred to in the foregoing paragraph and also to insure or expedite their seizure all within the scope of municipal legislation.

(3) Communicating the laws that have already been or may subsequently be enacted in their respective States in

(Continued on page 64)

## Is Official Censorship of Books Desirable?

### Pro

HON. REED SMOOT,  
U. S. Senator, Utah, Republican



HE amendments to the tariff bill introduced by the Senator from New Mexico have as their purpose either the total elimination or the weakening of the provisions of section 305 of the bill. The corresponding section of the 1922 act prohibits the importation of certain obscene articles and articles of immoral use or tendency, including lottery tickets. The House bill extended the prohibition to include printed or written matter advocating treason, insurrection, or forcible resistance to any law of the United States, or containing a threat to take the life of or inflict bodily harm on the President of the United States. The only amendment made by the Finance Committee was to enlarge the latter provision to include a threat against any person in the United States. The committee did this because it felt that such a provision should not be limited to the President alone and that a threat against any other person is equally obnoxious.

Subdivision (c) of section 305 of the 1922 act sets out the procedure for procuring warrants and for searches and seizures in respect of the articles prohibited by that section, and for their condemnation and destruction. All these proceedings are required to be had before United States district judges. A strict construction of the provision would require that the customs officers procure a warrant before any steps at all are taken for the legal seizure and forfeiture of the prohibited articles. Moreover, there is some confusion as to the application to such cases of the usual rules governing customs cases. It was for this reason that the Finance Committee concurred in the action of the House in striking out subdivision (3), leaving the proceedings to be covered by the general provisions governing seizures and forfeitures in other customs cases.

This action was not intended to have, nor will it have, the effect of taking away the jurisdiction of the district courts. Under section 608 of the bill the claimant may, by filing a cost bond, demand a court forfeiture if the value of the article is \$1,000 or less. If the value is more than \$1,000, condemnation proceedings must be had in the district courts. In such cases, of course, a jury trial may be demanded. So that even though the customs proceedings establish that the article is within the prohibited class, it may not be forfeited except in the manner indicated above. Elimination of the provisions of the 1922 act referred to will make for uniformity in procedure and remove from the law provisions now productive of confusion.

The amendments made by the House and retained by the Finance Committee bring the customs provisions into substantial harmony with the postal laws. This seems entirely logical and desirable. It is scarcely consistent on the part of Congress to prohibit the dissemination of this matter through the use of the mails and yet allow the country to be flooded from abroad. I am referring now, of course, particularly to the provision prohibiting the

*Continued on next page.*

### Con

HON. BRONSON CUTTING,  
U. S. Senator, New Mexico, Republican



IFFERENCE of opinion between the Customs Bureau and the postal censorship as to what books might be admitted and what might not, finally brought about a conference, a convention of the experts of the two departments, men who had been reading indecent literature all their lives, and felt that they were entitled to say what was or was not indecent. About a year ago these various experts met, and after comparing their experiences they got up a black list, which was subsequently added to.

Upon this list there are 739 books. Of those, more than half, or 379, are books written in the Spanish language.

Of the remaining books more than two-thirds, 231, are written in the French language. Five are books in the Italian language. Ten are books in the German language.

That leaves only 114 immoral books barred by the censor which are written in the English language.

I do not know that this list is of any importance in itself. I speak of it principally to show the depths of absurdity to which bureaucratic government may go. Is it conceivable that there are as many books written in Spanish as in all other languages put together which might corrupt the morals of any of our people, when we consider what a small proportion of the population are able to read books written in Spanish? Is it possible that only 114 English books could be ruled out as against over 600 written in other languages?

At the same time this black list was published the committee which put it out published a report. I will quote one or two sentences from their report so that the public may be aware of the principles on which the customs clerks are expected to act:

"In passing upon such literature the Bureau of Customs has considered, primarily, its evil influence upon the impressionable minds of those persons the statutes according to the courts, aim to protect—i. e., the young and inexperienced. In examining the text it is sought to determine if the psychological effect of the language would be to create in the mind of the individual libidinous thoughts, and unduly excite the sexual functions or arouse the animal passions. The main reason advanced by applicants for entry of the objectionable literature is that certain of the books are 'classics.'

"A 'classic' should be defined and distinction should be recognized as between the Bible and the bona fide literary classics (such as Shakespeare, Chaucer, Pope, Swift, and many others) on the one hand, wherein the obscene passages are incidental to the voluminous text of the superb literature, and the alleged 'classics,' cleverly conceived in an ancient medieval atmosphere, wherein obscenity is the motif."

What I am trying to bring out is the fact that as in other questions where we leave the construction of the regulations to a subordinate clerk in a department, we are gradually building up a number of precedents possibly altogether contrary to the spirit of the law originally

*Continued on next page.*

## Pro

HON. REED SMOOT—*Continued*

importation of articles of an anarchistic or seditious character, which are the only articles comprised in the section which are not in the existing law.

On principle, without regard to any harmonizing with other laws either in substance or procedure, I am in favor of its retention. I hope that the Congress of the United States will not serve notice to the world that the bars are down, so far as our customs laws are concerned, to all the obscene, indecent, and salacious matter that may be published abroad. I know it is said that much of the so-called obscene matter is literature, classical literature, and that foreign classics die along with matter immoral in purpose, use, and tendency. Well, let the dead past bury its dead. It were better, to my mind, that a classic suffer the application of the expurgating shears than that this country be flooded with the books, pamphlets, pictures, and other articles that are wholly indecent both in purpose and in tendency, and that we know all too well would follow the repeal of this provision.

I realize that mature, well-regulated minds may not be subverted by such matter. But such legislation is enacted to prevent such matter from coming into the hands of those whose minds are open to influence and whose morals are likely to be corrupted, and I am thinking particularly of the youth of our country.

I think the provisions of the bill should be agreed to. If I felt that the person who in good faith desires to import printed matter—books, for instance—did not have ample opportunity for final determination by the courts of the question of admissibility, I would gladly welcome an amendment. But as I stated before, the importer can always have his day in court. It is idle to say that it is not practical in most cases for the importer to avail himself of the legal remedy. What more would you have? If we are to have the law some one must decide upon its interpretation and application. If it rests finally with the courts no injustice should be done.

I have been told that while a book may carry the same name and be translated from English into Spanish, there are certain changes made in the wording itself meaning entirely a different thing, and it is upon that ground that they have been excluded.—*Extracts, see 6, pg. 64.*

## Pro

HON. FREDERICK H. GILLET,

U. S. Senator, Massachusetts, Republican



APPROVE the clause in the Tariff bill which provides that there shall be no literature imported into this country which advocates forcible resistance to the laws of the United States and which advocates treason or violence to persons. It seems to me that there ought to be such a provision in the law.

If we are not going to allow an American citizen to advocate force and violence, why should we allow a foreigner to import in documentary form exactly that same kind of argument?

We ought not to permit foreign literature advocating violence against the United States or violence against persons to be admitted into our borders through the customshouses.—*Extracts, see 6, pg. 64.*

## Con

HON. BRONSON CUTTING—*Continued*

enacted, and as those precedents are built up we get a code; we get a body of doctrine which we ourselves, who are supposed to be the legislative body of the country, are powerless to cope with.

The standards of decency and morality vary from generation to generation. Of all the classical authors the three who might seem least likely to be barred by the customs censors under present regulations are perhaps, Homer, Dante, and Shakespeare. I should like to point out to the Senate that each one of those authors at various times has been branded as an immoral or licentious author.

There has never been a nation on earth which had so widespread and far-reaching a system of universal education as has the United States, with its public schools, colleges, universities, with its libraries and night schools and correspondence courses. Is our whole educational system such a feeble thing that it cannot offset the effect of an occasional bad book that comes from abroad? Is the foundation of the American Government so feeble that it cannot withstand subversive opinions of a few foreign theories?

These very books which we allow to be published, which can be had in our own Congressional Library, which can be purchased in any book store are banned from importation.

When one thinks of the influences to which youth can be exposed, it seems rather far-fetched to believe that any particular difference can be made by any action of the Bureau of Customs.

What can be the position at the present time when any youth or any adolescent can take up a copy of a daily newspaper and read all the details of the Kipp Rhineland or the Peaches Browning cases or the cases which are being reported in the daily press here at the present time, the McPherson case and the O'Donnell case. The protection of the morals of the youth of this country must, I believe, be left in all common sense to their parents and to their families and to the laws of the States in which they reside.

I have tried to point out as briefly as possible the workings of this obscenity law so far as it is concerned with the Bureau of Customs. When we deal with this matter of seditious and insurrectionary literature, we, of course, are not treading on quite as firm ground as we are in connection with the question of obscenity, because the obscenity laws have been tested for a long time, but we cannot, of course, be sure just how the amendment to which I am now referring might work if it were adopted.

I think this section of the House tariff bill is, as a whole, absolutely indefensible, and I have submitted the amendment of which I am speaking now and which is a proposal to strike out the entire section.

We are now getting down to the base of the whole discussion, the propriety of excluding political opinion which may happen to differ from our own. I think it will be seen by anyone that a customs clerk might quite plausibly exclude almost any work of advanced political thought or even of political thought which happened to disagree with his own opinion. That is the fundamental difficulty with the whole censorship matter. There is no practical appeal in an ordinary case, because it is not worth a man's time or trouble or money to prosecute an appeal in general from a decision of such clerks.

*Continued on next page.*

## Pro

HON. GUY D. GOFF,

U. S. Senator, West Virginia, Republican



COME one in the United States can urge the levying of war against the United States, somebody in the United States can urge giving aid and comfort to the judicially determined enemies of the United States, and he will be guilty of violating the Constitution of the United States and the laws passed to execute those provisions of the Constitution.

Then to say that you can introduce from countries that do not understand the laws of the United States, and would not uphold those laws even if they did understand them, literature, ideas, and suggestions that could not emanate within the confines of this country, seems to me to be not only an absurdity, but I do not hesitate to say disloyalty to the spirit and the very letter of our Constitution and our laws.

It is well known that to make a threat to take the life of a citizen of the United States violates the laws of every State of the Union, and that the person so making that threat to take a life or to inflict bodily harm upon anyone is subject immediately to arrest and to be placed under bond to observe and keep the peace of the United States—that is, not again to repeat that threat or in any way to attempt to carry that threat into execution.

So I say, that the amendment offered by the Senator from New Mexico, Mr. Cutting, is to give privilege to citizens of foreign countries not only in regard to the Constitution of the United States, but also in regard to the laws of the different States of the Union which a man living in the United States would not be permitted to exercise or to enjoy.—*Extracts, see 6, pg. 64.*

## Pro

GEORGE WASHINGTON OCHS-OAKES,  
Editor, *Current History Magazine*.

GLADLY enter the lists to aid in arousing sentiment and urging that gaps in the law be closed so that creators and purveyors of unclean writings may not escape just retribution.

It is not a pleasant task to grapple this evil. Every one who undertakes it becomes a butt for ridicule, a target for the jeers, jibes and lampoons of columnists, critics, authors—and alas! editors also. When the hearing on the Clean Books Bill recently was held at Albany the publishers who have been issuing objectionable matter, authors who have been writing it, magazines who have been circulating salacious stories, editors of newspapers which thrive by sensational fiction, united in the effort to throttle the measure. On the other hand, representatives of numerous religious bodies, distinguished welfare workers, men and women representing institutions, associations and movements for the moral health and protection of our people—not fanatics or extremists, but sane, upright men and women who had no end to subserve other than the protection of the plastic mind of youth from the influence of immoral books—strove valiantly for its enactment . . .

A law which sanctions the printing and sale of some of the prurient publications now debauching our youth produces our vaunted civilization, and the blazing wrath of aroused public opinion from a people befouled and insulted will yet compel the authorities to dam up the polluted streams of abomination.

*Continued on next page.*

## Con

HON. BRONSON CUTTING—Continued

In my opinion, the only policy we can accept in this matter is the belief that the American people in the long run can be trusted to take care of their own moral and spiritual welfare; that no bureaucratic guardian is competent to decide for them what they shall or shall not read.

I admit that there may be those among us who will occasionally abuse those privileges; but I insist that the same men who would abuse those privileges would abuse the privilege of the franchise. If a man is not capable of deciding what he may or may not read without injury to himself, then that man is not fit to be intrusted with the right to select his own representatives in the Government.

I am trying to lay before the country this question as a matter of national policy which I consider of great importance. I do not criticize the people who have propounded laws of this character and who are supporting them today. Many of them are actuated by the most sincere motives. They believe in the principle stated by Edmund Burke that the people have a right to be protected from themselves by the superior members of the community. That is the theory which is adopted by the Government of Mussolini and the Government of the Russian Soviet at the present time. I hope that it will not be adopted by the United States as a governmental policy for the future.—*Extracts, see 6, pg. 64.*

## Con

PROF. ZECHARIAH CHAFFEE, JR.,  
of the Harvard Law School

HE power to decide whether such printed material shall be forfeited is given to the customs officials without a review before United States district judges.

It seems almost certain that this clause is not limited to books and pamphlets which specifically refer to revolution in the United States. The clause appears to include any general advocacy of revolution as a means of social change, since such a doctrine would naturally extend to the United States as well as to other countries. Some at least of the customs officials to whom the reading of the books is intrusted would be sure to act on this interpretation of the law.

This clause creates an effective censorship over foreign literature. There are many foreign books and pamphlets which for the most part contain elaborate discussions of social and economic questions, which it is very desirable to read. Here and there the writer is so impressed with the hopelessness of legal change in the present system that he advocates resort to force if nothing else serves. That alone will render importation of the whole book impossible.

Many of the classics of modern economics will be put on this new index expurgatorium. The law will prevent a loyal citizen from obtaining from abroad the work of Marx, Proudhon, Bakunin, or Stirner. Even if we could wisely dispense with these left-wing books, much less radical publications will be excluded. For example, one of the sanest discussions of contemporary thought which has had a large sale in this country is Bertrand Russell's *Proposed Roads to Freedom*. The further importation of this book would be forbidden because of its extracts from the communist manifesto of 1848 and from anarchist

*Continued on next page.*

## Pro

GEORGE WASHINGTON OCHS-OAKES—Continued

The most fallacious argument against more restrictive laws is the contention that the remedy should exist in the home; that the children should be taught that they will shrink from unclean books; that youth should have such moral stern fibre that it will be unaffected by lascivious appeal. This is a palpable quibble, irrational and illogical. As well repeal all criminal statutes and put full responsibility for youthful transgressions up to the parents; pardon the thief, pickpocket, cadet and young bandit because of lack of moral strength to resist evil; absolve the tempters, the Fagins and teachers of crime who snare boys and girls because their home training should have taught them resistance to such lures; let the betrayer go scot free, because the girl was badly raised and was too susceptible. Even in the days of the saloon, barkeepers were punished for selling to drunkards or minors without clemency because the drunkard was urgent or the minor badly brought up. Should we be more considerate of, or more compassionate, toward the author or publisher who inflames the passions and arouses the baser qualities of boys and girls with lascivious books, than to the saloon-keeper who entices them to intemperance, or maddens them with vile whiskey or other poisonous decoctions?

If we did not have rigid laws to suppress barrooms, those sinks of iniquity would flourish at every street corner; if we had loose laws to suppress narcotics, the victims of degenerating, habit-forming drugs would multiply a thousand-fold; if we had weak laws to suppress gambling, those dens of vice would flaunt their lure in every city block.

I have small patience with the supercilious class of writers, editors, critics and columnists, especially some of the latter. With rare exceptions they are conceited, over-indulged coxcombs of literature, suffering from delusions of greatness and exaggerated ego, borne by the tide of their own verbal exuberance, ready to sacrifice a reputation for a wheeze or blast a good name for a quip. This type of cynic pitilessly stabs with mordant pen and cruel jest any one who even timorously expresses a judgment which does not square with his dogmatic views. Particularly is he sardonic if such opinion is a protest against the prevailing laxity in manners and customs; if it expresses itself in dissent against the present extreme style of girls' habiliments, or in remonstrance against immodest flapperism; if it demands observance of temperance, reverence for religion, obedience to law and courts, or if it seeks intelligent censorship of lascivious plays and obscene books.

We enact laws to suppress narcotics, to protect our youth from habit-forming drugs; we pass statutes to guard our stomachs from poisonous foods; we have legislation to protect our eyes from vulgar sights; our ears from foul noises, our bodies from insufficient heat, our noses from offensive smells. The senses of sight, taste, feeling, hearing, and smell are cared for; but more sensitive, more impressionable than the entire five physical faculties is the mysterious matrix of the soul, the subliminal consciousness which dwells in the human form and indelibly records all its physical reactions; that imperishable, impalpable essence which comes direct from God to be reabsorbed after death into immortality! Shall it be neglected, forsooth, because certain erotic writers must find markets for their foul productions? God forbid!

The proposition to censor works of the imagination,

*Continued on next page.*

## Con

PROF. ZECHARIAH CHAFFEE—Continued

songs. Of course, any antisocialistic book which gives an adequate historical account of its opponents will fall under the same condemnation.

One particular instance will show the evil of such a statute. Harvard University has been collecting in its library books, pamphlets, posters, and other material relating to the Russian Revolution. After the French Revolution nothing of the sort was attempted for many years, and in consequence all collections of documents of that period are very imperfect. The Harvard library is avoiding such a loss in the case of the Russian Revolution, which everybody, no matter what his opinion of it may be, recognizes as one of the important events in history. The proposed law would necessitate the seizure of most of any further material of this sort on its arrival from Russia. No exception is made in the bill for universities or other libraries. Even officials can not lawfully import revolutionary literature, and an exception in their favor would be an insult to the citizens of the United States.

This law will not merely prevent the importation of important books printed abroad, but it will also indirectly stop the reprinting of such books by our own publishers, since they will be unable to obtain the necessary sheets of the book from abroad for use in setting up the type here.

This law is a kindergarten measure which assumes that the American people are so stupid and so untrustworthy that it is unsafe to let them read anything about revolutions, because they would immediately become converted. If this legislation is to be enforced with any impartiality, it must necessarily cut us off from the economic and political thought of Europe and the rest of the world in our own time.—*Extracts, see 6, pg. 64.*

## Con

ALFRED BETTMAN

Former Assistant Attorney General of the U. S.



SECTION 305 of the proposed tariff act of 1929 as reported out by the Ways and Means Committee of the House of Representatives and the Finance Committee of the Senate, forbids the importation of "any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason, insurrection, or forcible resistance to any law of the United States."

If this really means what it says, then it is useless. For, as a matter of fact, nobody writes or imports any book or writing advocating or urging treason, insurrection, or forcible resistance to any law of the United States.

In all the history of courts in the United States there has never been a conviction for treason; and Aaron Burr was the last man who advocated insurrection. But the proposed tariff bill proposes to place the interpretation and application of the section in the hands of customs officials and the Customs Court, and we know by experience that language of that sort is interpreted and applied by administrative officials in a manner most dangerous to civil liberties and contrary to fundamental constitutional conceptions.

For instance, take a book which in a most scientific, impersonal and philosophical manner discusses violence as a mode of political activity, for instance, as those written

*Continued on next page.*

## Pro

GEORGE WASHINGTON OCHS-OAKES—Continued

whether books, pictures, plays or movies, raises invariably a storm of dissent among the few sincere but misguided, and the many see their pocketbooks affected; they passionately protest that it implies a suppression of "Truth," the "hamstringing" of art, a restraint of "free expression."

But: What is "Art?" What is "Truth?" What is "Free Expression?"

Is "Art" a creation to arouse lustful emotions; is "Truth" the expression of thoughts to stimulate vicious impulses; is "Free Expression" a privilege to diffuse foul suggestions?

Who is to determine whether these sinister seeds are sown? Shall it be he or she whose moral reactions are so blunted as to be either contemptuous of or insensitive to the evils that lurk behind their work? Or shall the decision rest with an unbiased judicial body of experts, chosen by legal authority—men and women—who have not the perverted artistic temperament, also who are free from the enticements of swollen box office receipts? It is a sad commentary on the depravity of human nature that the more salacious the book the more risque the play, the more suggestive the work of art, the wider the appeal, the greater the sale, the bigger the audiences. Publishers and producers are keenly aware of this! hence anything that may restrain unfettered latitude in appealing to this human frailty raises strong objections.

But does true art suffer by reasonable restraint?

Shall it be contended that art finds real expression only in libidinous utterance? Will the emotions evoked by imaginative work, whether of author, dramatist, painter or sculptor, evaporate unless they are inflamed by lustful appeal? To admit this is to confess that idealism, purity, ethics and morals have vanished and that our vaunted civilization is a delusion.—*Extracts, see 7, pg. 64.*

## Pro

JOHN FORD,

*Justice, New York State Supreme Court.*

AMERICAN ideals never grow old and never fade. They are as eternal as God Himself Who set them up as a goal toward which a righteous people should ever strive.

Foremost among them is morality, public and private. By that term is not meant the moral tenets of any particular denomination, sect or cult, but that fundamental morality which is recognized by all religions and all civilized peoples as the foundation of well-ordered human society.

No country in the world has had so high a standard of personal conduct in this respect as our own. The foundation stones of the Republic's greatness were laid on the bedrock of sound morality. Nowhere in all the world has womanhood been so exalted and revered as in the United States, which has won for itself among the nations of the earth the proud title of "The Paradise of Women."

"The grandeur that was Rome" was won while her people adhered to their ancient rigid code of moral conduct. When the sterling virtues of the republic gave way to the profligacy of the empire Rome's doom was sealed as surely as that of Sodom and Gomorrah.

It requires but a cursory examination of existing conditions to realize how we, in this country, have begun to drift away from our old moral ideals within the past

*Continued on next page.*

## Con

ALFRED BETTMAN—Continued

by the French political scientist Sorel's work on Violence, or a book which discusses the ethics of revolution in a most philosophic and detached spirit. The author might even take his stand against the use of violence under any circumstances but include within his book, for purposes of discussion, the arguments of his opponents. Such discussions occur in the works of some of our most learned political scientists and constitutional lawyers. Such books do and ought form part of the reading of students of problems of law, government, and ethics, and it is just such books which administrative officials, not equipped with the necessary philosophic and scholarly outlook, are apt to interpret as falling within a provision of this nature.

Certainly in peace time we do not need any sedition law. What place has a sedition law in a protective tariff bill? As Justice Oliver Wendell Holmes has pointed out in his latest opinion, freedom of thought and discussion is the vital basic freedom. Without it democratic society is impossible. We have no sedition. The proposed section is worse than useless; it is mischievous.—*Extracts, see 6, pg. 64.*

## Con

HON. MILLARD E. TYDINGS,

*U. S. Senator, Maryland, Democrat.*

DO not think that the Senate is any better able, or any customs inspector is any better able, to say what is right and what is wrong than are the great masses of the American people. This thing of taking one or two men and placing them upon God's altar, where they can decree what is and what is not righteousness, is certainly contrary to every decent instinct of a democratic government.

I have more faith in the American people than to believe for one instant that the importation of a few magazines which might be questioned is going to drag them down into hell and damnation. We make mountains out of molehills. Who is the man who reads the books down in the Treasury Department? Has Almighty God endowed him with any more mind than many other people? How does he get, in this democratic Government, the right of censorship?

I do not want to see the greatly extreme matters brought into this country, but I know that the cure is worse than the disease; that under the guise of regulating the habits and the morals of the people of the United States many works of real benefit, which can make real constructive contributions to a broader and healthier and more intellectual type of men, are barred from entry into this country.

As pointed out, a professor of literature over at Johns Hopkins University, wishing to bring in a very rare book, of which there are only a few in print, to teach to his class, had the humiliation of having a customs inspector bar that book at the port of entry, New York. Does the man who said that book was immoral have any more intelligence or any more right to say what should be or should not be taught to the students in Johns Hopkins University than has the professor who is charged with the duty of building up their education, telling them of the events of the past, how men live, what the weakness of other governments were, and other governments' strong points?

We often hear it said that the decline of Rome was due to thus and so. How in the world are we ever to

*Continued on next page.*

## Pro

JOHN FORD—Continued

few years." Whether this be due to an essential drop in moral tone or comes as part of the aftermath of the World War is a moot question. Probably it should be regarded as one of the well-nigh countless evils which the war-demons scattered over the face of the whole earth.

Printed obscenity has countless distributing agencies and preys upon the souls and bodies of millions in secret. Once permit an immoral publication to go into print and it becomes a source of evil influences from generation to generation.

Parents are practically helpless to protect their children from the contamination of printed immorality. Under present conditions it is around them everywhere. Excluded from the home, it will be read outside if indeed it be not smuggled in, despite parental vigilance.

But what shall be said of the large families of children, particularly in large cities, whose parents cannot read English? Happily some are so circumstanced as to be able to safeguard their children. But what of the multitude of parents whose occupations and educational limitations render them powerless to do so? Such helpless folk should be the objects of the solicitude and care of the more fortunately situated. We live—or should—not unto ourselves alone, but unto others.

It is the rising and future generations which are endangered and our duty to these may not be shirked.

The baleful influence of such reading upon the plastic minds of young people is appalling; and there is an unceasing effort on the part of authors of a certain type to undermine the moral principles inculcated by church and parents. Licentiousness is apotheosized by them, self-control ridiculed and the libertine cast in heroic mould.

Is the decline of this nation to be as rapid as its rise? Are we to regard the growing disregard of marriage ties, the promiscuity of sexual relations, the profligacy and licentiousness in all forms and the general disregard for the law as the harbinger of national decay? Be it always remembered that these were the first signs of dissolution in every nation which having grown to greatness, are today, "one with Nineveh and Tyre."

The accumulated wisdom and experience of the ages have been able to devise but one effective method of dealing with obscene publications and that is to stamp them as criminal and punish distributors of them like other criminals.

The grotesque falsity of the charge against censorship cannot long gain credence in the minds of even the most gullible of our citizens. It is perfectly well understood by everyone who has given even casual attention to the question that no censorship of the press can be established\*\*\* in the nation because\*\*\* the constitution of the United States bars it. On the other hand the Supreme Court of the United States\*\*\* has expressly declared that printed obscenity is not protected by the constitution. It is simply a crime and its perpetrators have been proclaimed outlaws by every constitution and the statutes of every state and every country under Anglo-Saxon institutions and in most of the other civilized nations.

In any form, the dissemination of obscenity is a crime. Every citizen is required by law to act as a censor of crime, that is, to reveal to the prosecuting officials any knowledge of crime which comes to him and to aid in the apprehension of the criminal and in his prosecution. This sort of censorship has always existed under our institutions and all others of English origin.—*Extracts, see 7, pg. 64.*

## Con

HON. MILLARD E. TYDINGS—Continued

know what tore down the Roman Empire, which lasted for nearly 500 years, without men reading the truth about it, and having the truth, being in a position to take action by this Government to prevent a recurrence here?

I am not afraid to change this form of government if, after the people have all the facts, they find that they think another form of government is better. This idea of being wedded to precedents, which may impress mankind simply because they are precedents, does not appeal to me. Intelligence is on the other side of the argument.—*Extracts, see 6, pg. 64.*

## Con

HON. ROBERT M. LA FOLLETTE, JR.,  
U. S. Senator, Wisconsin, Republican.

THE Government was not shaken to its foundations when there was no provision for some underling in every one of the ports of the country to prevent the importation of literature which that clerk might declare to be treasonable or obscene. In 1890 obscene literature was included and another step toward censorship, toward the building up of a wall of exclusion against knowledge, was taken in this country.

Now, in 1929, the House of Representatives and the Senate Finance Committee propose to take a further step in raising higher this wall of exclusion against knowledge. They propose to place it within the discretion of a customs official in the various ports of the country to decide whether or not literature desired to be imported is of a "seditious" or a "treasonable" character.

History discloses down through the ages that tyrants and those desiring tyrannical power have ever been opposed to the dissemination of knowledge and they have ever taken the position that the dissemination of knowledge was detrimental to the common people. They have ever taken the position that the rank and file of the people were not to be trusted to study and learn from the classics, from the literature and the knowledge of the world. The reactionaries have always taken the ground that the prohibition which they desire to set up against the dissemination of knowledge was taken not in the interest of the continuation of their own power, but to protect the rank and file of the people from gaining knowledge which would be harmful to them.

Have we reached the point in the history of this great Republic when we are to take the position that no longer can the people of the country be trusted with access to the knowledge and the information and the advancement which may be had in the world outside of our own borders? If we have reached that point then let us be frank about it. Let us admit that out experiment in democracy has failed, that we have reached the point where we no longer trust the individual citizen, that we have come to the conclusion that the Government founded by our fathers was founded upon a fallacy, that it rests upon a misconception, and that our Government is a failure. I do not believe that Senators are ready to take that position. I believe that in the Senate of the United States there is a majority who still believe in representative government, who still believe in democracy, and who still have confidence in the ability of the rank and file of the citizens of the Republic to listen to the arguments upon both sides of every important question and to make a decision which in the last analysis is sound.—*Extracts, see 6, pg. 64.*

## Pro

HON. JOSEPH STORY,

Associate Justice, U. S. Supreme Court, 1811-1844



HERE is a good deal of loose reasoning on the subject of the liberty of the press, as if its inviolability were constitutionally such that, like the king of England, it could do no wrong, and was free from every inquiry, and afforded a perfect sanctuary for every abuse; that, in short, it implied a despotic sovereignty to do every sort of wrong without the slightest accountability to private or public justice. Such a notion is too extravagant to be held by any sound constitutional lawyer, with regard to the rights and duties belonging to governments generally or to the state governments in particular. If it were admitted to be correct, it might be justly affirmed that the liberty of the press was incompatible with the permanent existence of any free government. . . . In short, is it contended that the liberty of the press is so much more valuable than all other rights in society that the public safety, nay, the existence of the government itself, is to yield to it? It would be difficult to answer these questions in favour of the liberty of the press without at the same time declaring that such a license belonged and could belong only to a despotism, and was utterly incompatible with the principles of a free government.—*Extracts, see 7, pg. 64.*

## Pro

HENDRICK W. VAN LOON,

Author.



OUR country is being overrun with and by a putrid stream of the most despicable, the most iniquitous, and on the whole the most dangerous form of degraded variety of literature; that this stuff is being publicly sold and publicly sent through the mails; and that so far no authority, public or otherwise, seems to be willing or able to stop the dissemination of this literary garbage. So that is that.

Furthermore, this degraded stuff is not a monopoly of the metropolis. It is sold just as openly in Yellow Springs, Ohio, as in Homer, N. Y., or any other hamlet of our fair land. It is ubiquitous. It is printed by the ton and sold by the bale. It has millions of dollars behind it. And it is of recent origin. And worst of all, they commit their crime in the name of health, of morals, of the purity of the home, and they cover their tracks so cleverly that the ordinary post-office inspector or a professional censor shouts—"Why this is fine stuff."

I repeat that if the reader thinks that I am making a mountain out of a molehill, the true test lies around the corner. Let him or her put on his or her galoshes and inspect a news stand, or the magazine section of a department store. He will there find a collection of "revelations," "dreams," "romances" and "confessions" which in their true nature are nothing but thinly veiled pornography. If he or she has a spare quarter, I shall ask him or her to do me a favour. Let him buy a copy. Let him take it home and read it. Then after half an hour's gargling with strong disinfectants, I want him or her to light a cigarette and ponder upon the strange duality of our official world, which makes a cannibal feast of a book when it contains the word "belly," and which permits the publication and dissemination of the whole wagon loads of stories which Louis XV would have ordered burned by the public hangman and which would have made Casanova blush with shame.—*Extracts, see 7, pg. 64.*

## Con

WILLIAM ALLAN NEILSON

President, Smith College



THE question of literary and dramatic censorship is not at the moment merely an annoying perplexity in the life of a single city, but is an issue which concerns the whole country. Its emergency is frequently regarded as a particular instance of an anti-liberal tendency appearing in a great variety of forms throughout the nation, and it is highly important that despite its difficulty we should seek to see clearly what principles are implied in the suppression of books and other forms of expression, and whether these are in harmony with common sense and the ideas which lie at the basis of our social structure.

In spite of recent tendencies in legislation and public opinion we still assume, remembering the confessions of faith on which the republic was founded that we believe in human liberty. The majority still holds, theoretically at least, that for the highest development of an individual or a community a large degree of freedom is necessary. Most of us would also agree that, in particular questions of the restriction of liberty, the burden of proof is on him who would restrict. Yet it is also agreed that for the preservation of liberty itself certain restrictions are necessary. The problem, then, is not one to be solved by a simple statement of general principles, but by a consideration of how and when the principles, once agreed upon, apply.

I believe that on many matters concerned with censorship there is a larger degree of unanimity than is generally supposed, but that a lack of explicitness has confused the public mind and unnecessarily multiplied antagonisms.

To begin with, we ought to know whether in applying censorship we are considering the welfare of the adolescent or the adult. No one disputes the necessity of different measures in dealing with the mature and with the immature, since, apart from a few extremists, all our educational measures take for granted that the young must be guarded from risks that may inflict injury before experience has been acquired and before reason has been developed to the point where the significance of the risks can be appreciated. So, in the case of certain types of literature, plays, and pictures, it is justifiable and probably necessary to seek to prevent the young from being exposed to them while their imaginations are highly impressionable and their self-control is undeveloped.

The exercise of measures for this end is a matter mainly for parents and teachers rather than for the police, since what books can be put into the hands of boys or girls, or what plays they should be taken to see, is largely an individual matter dependent less upon mere age than upon degree of development and manner of upbringing. For adolescents who are beyond the control of parents or teachers, the question is more difficult. But I should urge the weighing of two considerations in this connection. First, keeping an undesirable book out of the hands of a young boy or girl is an affair requiring much tact, and persuasion is usually better than compulsion or threats of punishment. Otherwise we simply add the attraction of forbidden fruit and challenge the child to outwit us. Secondly, the attempt to save our children from what we regard as dangerous knowledge is likely in our times to

Continued on next page.

## Pro

HON. PARK TRAMMELL,

U. S. Senator, Florida, Democrat



REGARDLESS of the question of the view of a Senator or anyone else in regard to whether or not obscenity promotes good morals or does not promote good morals, I differ with the idea that obscene literature promotes good morals, and I differ with the idea that to prohibit obscene literature conflicts with a man's liberty. We have heard questions of liberty argued and we have heard arguments presented in this country in the name of liberty against every effort to bring about any character of reform. We would have practically no reform legislation if we listened to these arguments about liberty. I am for liberty in its true sense as vouchsafed to us in the Constitution, but do not want to adopt the definition of the anarchist of what liberty means, or what the writer of obscene and indecent literature may call liberty.

We have a great many foreigners that come into the country in these days. There has been a period of unusual immigration to the United States in the last 25 or 30 years. I do not think it is very good to encourage the idea of anarchy in those foreigners who have not yet become thoroughly Americanized.—*Extracts, see 6, pg. 64.*

## Pro

HON. J. THOMAS HEFLIN,

U. S. Senator, Alabama, Democrat



THE home is the bedrock upon which the Republic rests. Here is communism rampant in our country, and yet some do not want to do anything to suppress it. It is true, we have grown to be a powerful and prosperous people; but it has been the history of every great nation of the earth that in their search for wealth they have neglected the search for idealism and have lost sight of right principles and spiritual values. Cults of various kinds spring up; they organize; they work quietly; and when trouble is least expected it breaks upon us. These pernicious doctrines have a hold in the country that we know nothing about because we have been too busy searching after dollars and dimes; too busy to stop and find out what is going on in the civic household of the Nation.

I do not propose that any amendment to the tariff bill shall pass if I can prevent it that will prevent this country to become the dumping ground of all the unfit literature of the earth, to come in here to be studied by our boys and our girls, to give them wrong ideas of government, to exalt in their minds the principles of anarchism and of communism. I want to protect the young men and the young women of America from floods of literature of that kind.

But when it comes to the fruits of this deadly literature that is already coming in, when murder grows out of it, when communistic doctrines are spreading over the land, when the doctrine of the black shirts of Italy is spreading over the land, when various "isms" are coming in that one day will rise up to hound us and to threaten us by their strength in this Republic, here is an opportunity; the hour has struck when we can put a stop to the coming in of literature that poisons the mind of the citizen to be and sows dragon's teeth in the path of the Republic.—*Extracts, see 6, pg. 64.*

## Con

WILLIAM ALLEN NEILSON—*Continued*

be a locking of the stable door after the steed is stolen. It is my impression that most freshmen (of both sexes) come to college today already familiar to the point of losing interest with many of the facts and ideas which anxious parents are terror-stricken lest they acquire. And not only are they familiar with them, but they seem to have acquired a kind of immunity which leaves them quite as fresh and unspoiled as their ignorantly innocent parents were at their age. The policy of "Hush, hush!" is seldom effective, and may, indeed, produce precisely the opposite result to that intended.

He (the censor) must find the ground for depriving the adult citizen of the privilege of choosing his own books and his own plays and pictures, he must find a method of selecting censors wise enough to suppress only what is really demoralizing without stifling progress and experiment, and he must hit upon a device which will prevent banning a book or play from advertising it. And, lest he think that it is safer to err on the side of suppression than on the side of freedom, let him remember that it is through freedom and not through compulsion that the human spirit gains in power and reach.

"Under what precise set of conditions," writes Sir Walter Raleigh of the novels of Fielding, "and exactly by what persons, he is to be read is a question that need trouble no one long. Books are written to be read by those who can understand them; their possible effect on those who cannot is a matter of medical rather than of literary interest. Some literary critics, it is true, with a taste for subdued tones in art, have found some of Fielding's loudest notes too strident for enfeebled ears, but not to the great musician can the whole range of the orchestra, not to the great painter can the strongest contrast of colours, profitably be denied."

## Con

HON. BURTON K. WHEELER,

U. S. Senator, Montana, Democrat



URING the war we placed upon the statute books a law which made it a felony for anyone to threaten to take the life of the President of the United States. It seemed perfectly plain to me what that law provided, but an examination of the decisions of the Federal district courts of the United States was.

There is not any Senator but wishes to stop the real advocacy of treason; there is not anyone but would prohibit the urging of insurrection; but the trouble is that when we put such a law upon the statute books we leave it in the first instance to some clerk to interpret what is meant by the word "advocate" and the word "urge." This language is perfectly clear to Senators, and you would say that the statute would not permit anyone to stop books which are historical in their nature from coming into the country, and yet I am satisfied that is exactly what would be done if we are to judge the future by the past.—*Extracts, see 6, pg. 64.*

## The 71st Congress

*Duration of the 70th Congress, March 4, 1929-March 4, 1931*

*First, or "Special" Session, Convened April 15, 1929. Adjourned November 22, 1929*

*Second, or "Long" Session, Began December 2, 1929.*

### *In the Senate Membership Total—96*

53 Republicans      39 Democrats  
1 Farmer-Labor  
2 Vacancies

### *Presiding Officer*

President: Charles Curtis, R.  
Vice-President of the United States

### *Floor Leaders*

*Majority Leader*      *Minority Leader*  
James E. Watson, Ind., R.      Joseph T. Robinson, Ark., D.

### *In the House Membership Total—435*

267 Republicans      165 Democrats  
1 Farmer-Labor  
3 Vacancies

### *Presiding Officer*

Speaker: Nicholas Longworth, R.  
Member of the House from Ohio

### *Floor Leaders*

*Majority Leader*      *Minority Leader*  
John Q. Tilson, Conn., R.      John N. Garner, Tex., D.

## The Coming Month in Congress

*By Norborne T. N. Robinson*



PASSAGE by the Senate of the Tariff Bill by or before March 1, to be followed by consideration of the Norris Resolution for the disposition of the Muscle Shoals problem. Passage by the House of the Administration bill transferring the prohibition enforcement administration from the Department of the Treasury to the Department of Justice; two or three appropriation bills and a bill making provision for the licensing and regulation of motor buses in interstate commerce. These, according to leaders of both parties in Congress are the principal legislative steps to be taken during the next few weeks.

The long drawn out fight over the tariff in the Senate has left the members of that body rather weary, with the result that a supreme effort will be made to reach an adjournment in May or early June. This being election year, when the entire membership of the House and one-third of the membership of the Senate face campaigns for reelection, members of all factions are more or less willing to agree on a program that will involve the passage, at this session, of essential legislation only.

The House Committee on Appropriations has been reporting the annual supply bills promptly and little time

has been wasted on the floor of the House in passing them. On February 1 five of these bills had passed the House.

The Senate Committee on Appropriations also has been acting promptly on the supply bills with the result that the entire appropriation program is moving with smoothness and despatch.

Assuming, as Senate leaders of both parties do, that the Tariff Bill will be passed by the Senate by March 1, if not earlier, the general opinion is that this measure will stay before the Conference Committee of the two Houses about six weeks. According to this estimate the Conference Committee would report by April 15 at the latest. What the final outcome will be no one seems willing to predict. Some astute observers feel that the Conference Committee will reach an agreement and that some sort of Tariff Bill will be passed. Others venture the opinion that the Conference Committee will fail to reach an agreement and that the bill will be dropped, leaving the present Tariff law operative. Both sides agree, however, that it is too early to make an accurate forecast.

## Action Taken by Congress

### A Daily Summary of the Proceedings of the House and Senate

January 6, 1930 to January 20, 1930

*Note*—This department contains a record of action on the floor of the House and the Senate. By following it from month to month the reader obtains a compact but complete review of the work actually done by Congress throughout the session. The principal abbreviations used are the following: H. R. means House bill; H. Res. means House Resolution; H. J. Res. means House Joint Resolution; H. Con. Res. means House Concurrent Resolution; S. means Senate Bill; S. Res., Senate Resolution; S. J. Res., Senate Joint Resolution, and S. Con. Res., Senate Concurrent Resolution. If reference is made to the consideration or action by the Senate of a House bill or resolution, it means that the House has passed it and sent it to the Senate, and vice versa.

#### Monday, January 6, 1930.

##### Senate:

The Senate was called to order at noon by Vice President Curtis.

Prayer followed by the Chaplain.

Mr. Dill, Wash., D., spoke on the Radio Law of 1927 in regard to the use of profanity in broadcasting.

Passed S. 15, amending the Civil Service Retirement Act.

Passed over several bills on the calendar.

Passed S. 544, authorizing receivers of national banking associations to compromise shareholders' liability.

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Walsh, Mass., D., Blaine, Wis., R., Smoot, Utah, D., Gillett, Mass., R., Harrison, Miss., D., Caraway, Ark., D., and others spoke on the bill.

Received from the House announcement of the death of Hon. Elmer O. Leatherwood, late representative from Utah.

Adjourned as a further mark of respect to the memory of Representative Leatherwood.

##### House:

The House was called to order at noon.

Prayer by the Chaplain followed.

Representative Cramton, Mich., R., spoke on the progress in enforcement of national prohibition.

Received the resignation of John F. Carew as a member of the House of Representatives from New York.

Received the announcement of the death of Hon. Elmer O. Leatherwood, a representative from Utah.

Adjourned as a further mark of respect to the memory of Representative Leatherwood.

#### Tuesday, January 7, 1930.

##### Senate:

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Smoot, Utah, R., Copeland, N. Y., D., Walsh, Mass., D., Blaine, Wis., R., Tydings, Md., D., Goldsborough, Md., R., and others spoke on the bill.

Mr. Blease, S. C., D., and others spoke on the Eighteenth Amendment.

Messrs. Smoot, Utah, R., George, Ga., D., Copeland, N. Y., D., Walsh, Mass., D., and others spoke on the tariff bill.

Recessed.

##### House:

Agreed to H. Res. 113, regarding the contested election case of Harry M. Wurzbach, Contestant, v. Augustus McCloskey, Contestee.

Representative La Guardia, N. Y., R., Linthicum, Md., D., Beedy, Me., R., and others spoke on the prohibition enforcement problem.

Began consideration of H. R. 7955, the War Department Appropriation bill.

Representatives O'Connor, Okla., R., Adkins, Ill., R., Jones, Tex., D., and others spoke on the bill.

Adjourned.

#### Wednesday, January 8, 1930.

##### Senate:

Agreed to S. Res. 195, authorizing an appropriation of \$5,000 to be expended from the contingent fund of the Senate for miscellaneous items, maintenance, supplies, equipment and labor for care and operation of the Senate Office Building.

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Walsh, Mass., D., Norris, Nebr., R., George, Ga., D., King, Utah, D., Smoot, Utah, R., Harrison, Miss., D., and others spoke on the bill.

Mr. Black, Ala., D., and others spoke on the request to the Attorney General of the United States that he consent to the proposed nullification of the decree rendered against the giant-meat-packers' association in 1922.

Mr. Vandenberg, Mich., R., spoke on the pilgrimage of gold-star mothers to France.

Open executive session.

Passed S. J. Res. 115, authorizing the appointment of an Ambassador to Poland.

Recessed.

##### House:

Resumed consideration of H. R. 7955, the War Department Appropriation bill.

Representatives Underhill, Mass., R., Tilson, Conn., R., Morton D. Hull, Ill., R., McKeown, Okla., D., and others spoke on the bill.

Representative Lankford, Ga., D., spoke on a bill he introduced on January 6, 1930, providing for the establishment of a department of general welfare.

Representative Cox, Ga., D., spoke on the uses of various oils and advocated higher duties on oil imports to protect local interests. The tariff should be applied to imports from the Philippines, but perhaps with refunds, he said.

Representative Treadway, Mass., R., spoke on income tax refunds.

Adjourned.

#### Thursday, January 9, 1930.

##### Senate:

Agreed that Mr. Robinson, Ark., D., be excused from further service on the Committee on Territories and Insular Affairs and that Mr. Hawes, Mo., D., be assigned to said Committee as Mr. Robinson is en route to London, as a delegate to the Naval Conference.

Mr. Dill, Wash., D., spoke on the use of profanity in radio broadcasting.

Vice-President Curtis laid before the Senate the nomination of Mr. Sackett, Ky., R., to be Ambassador of the United States to Germany, which was unanimously confirmed.

The Clerk read a letter from Mr. Sackett to the Governor of Kentucky containing his resignation as a Senator from the State of Kentucky to take effect immediately.

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Ransdell, La., D., Vandenberg, Mich., R., Walsh, Mont., D., and others spoke on the bill.

Mr. Harrison, Miss., D., spoke on S. 2978, concerning a suitable name for the dam to be erected at Boulder Canyon.

Passed several minor bills.

Confirmed several nominations.

Executive session.

Recessed.

##### House:

Accepted the resignation of Representative Cullen, N. Y., D., as a member of the House Committee on Appropriations and agreed to resolution appointing him a member of the House Committee on Ways and Means.

Representative McClintic, Okla., D., spoke on the coming London naval conference and commended the personnel of the

Commission to represent the United States.

Representative Rankin, Miss, D., spoke on the recent fire at the Capitol Building and the pictures taken by certain movie-tone apparatus, which he stated discredited the Capitol and the fire department.

Representative Beck, Pa., R., spoke in eulogy of John Marshall, first Chief Justice of the United States Supreme Court, whose statue was dedicated in Philadelphia on January 7, 1929.

Representative La Guardia, N. Y., R., stated that Representative Beck was the donor of the statue.

Resumed consideration of H. R. 7955, the War Department Appropriation bill.

Representatives La Guardia, N. Y., R., Cramton, Mich., R., Garner, Tex., D., Davis, Tenn., D., Barbour, Calif., R., and others spoke on the bill.

Adjourned.

### Friday, January 10, 1930.

#### Senate:

Received a telegram from the Governor of Kentucky, announcing and containing a transcript of the appointment of John M. Robison as Senator from Kentucky to fill the unexpired term of Mr. Sackett, appointed ambassador of the United States to Germany.

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Smoot, Utah, R., La Follette, Wis., R., and others spoke on the bill.

Recessed.

#### House:

Representative Cramton, Mich., R., spoke on a purported agreement of House leaders against putting through the President's program for prohibition enforcement.

Representative Chalmers, Ohio, R., spoke on H. J. Res. 132, regarding the elevation of the Polish legation to an Embassy.

Representative Schafer, Wis., R., spoke on the prohibition problem.

Representative Robison, Ky., R., who had been appointed a Senator from Kentucky gave his farewell address.

Resumed consideration of H. R. 7955, the War Department Appropriation bill.

Representatives Collins, Miss, D., Taber, N. Y., R., Johnson, Wash., R., and others spoke on the bill.

Adjourned.

### Saturday, January 11, 1930.

#### Senate:

Mr. Robison, newly appointed Senator from Kentucky was sworn in.

Passed S. J. Res. 107, authorizing the Secretary of War to receive, for instruction at the United States Military Academy at West Point, Senor Guillermo Gomez, a citizen of Colombia.

Passed S. J. Res. 17, authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point, Bey Mario Arosemena, a citizen of Panama.

Passed S. J. Res. 69, authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point, Edmundo Valdez Murillo, a citizen of Ecuador.

Passed S. J. Res. 100, authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point, Godofredo Arrieta A., Jr., a citizen of Salvador.

Passed S. 2322 and S. 2323 authorizing the Director of the Census to collect and publish certain additional cotton statistics.

Committee assignments as received were approved.

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Harrison, Miss, D., Copeland, N. Y., D., La Follette, Wis., R., and others spoke on the bill.

Executive session.

Recessed until Monday, January 13, 1930.

#### House:

Representative Warren, N. C., D., discussed the speech of the Secretary of the Navy at Boston in regard to the shooting of men aboard the so-called rum-runner "Black Duck."

Resumed consideration of H. R. 7955, the War Department Appropriation bill.

Representatives Mansfield, Tex., D., Stafford, Wis., R., Johnson, Wash., R., Howard, Nebr., D., Cochran, Mo., D., and others spoke on the bill.

Adjourned until Monday, January 13, 1930.

### Monday, January 13, 1930.

#### Senate:

Received from the President the report of the National Commission on Law Enforcement and Observance.

Resumed consideration of H. R. 2667, the tariff bill.

The Senate recessed for a brief period of five minutes to receive on the floor of the Senate General Jan. Christian Smuts, former Prime Minister of the Union of South Africa.

Messrs. Waterman, Colo., R., Norris, Nebr., R., and others spoke on the tariff bill.

Recessed.

#### House:

An address on Philippine independence was made by Pedro Guevarra, resident commissioner of the Philippines.

Received from the President the report of the National Commission on Law Enforcement and Observance.

Representative Johnson, Wash., R., Chairman of the Immigration Committee advocated adoption of a numerical limitation on immigration from the Western Hemisphere.

Resident commissioner Oasias of the Philippine Islands spoke on Philippine Independence.

Resumed consideration of H. R. 7955, the War Department Appropriation bill.

Representatives Woodruff, Mich., R., Barbour, Calif., R., La Guardia, N. Y., R., and others spoke on the bill.

The resignation of Representative Boylan, N. Y., D., as a member of the House Committee on Rivers and Harbors was accepted. He was then named a member of the Committee on Appropriations.

Adjourned.

### Tuesday, January 14, 1930.

#### Senate:

Resumed consideration of H. R. 2667, the tariff bill.

Mr. Borah, Idaho, R., and others spoke on the bill.

Mr. Caraway, Ark., D., read the fifth interim report of the Judiciary sub-Committee investigating the lobby situation.

Mr. Vandenberg, Mich., R., spoke on tariff autonomy of the Philippine Islands.

Mr. Brock, Tenn., D., Harrison, Miss, D., Copeland, N. Y., D., and others spoke on the tariff bill.

Recessed.

#### House:

The House paused in its business routine for a moment to pay respects to the commander in chief and the past commander in chief of the Grand Army of the Republic.

Resumed consideration of and passed H. R. 7955, the War Department Appropriation bill.

Representatives Summers, Wash., R., Sloan, Nebr., R., Tarver, Ga., D., Crisp, Ga., D., and others spoke on the bill.

Recessed for a few moments to receive Gen. Jan. Christian, South African statesman, and Eric Louw, Minister of South Africa.

Resumed consideration of H. R. 7955, the War Department Appropriation bill.

Agreed to H. Res. 121, covering several committee assignments.

Adjourned.

### Wednesday, January 15, 1930.

#### Senate:

Resumed consideration of the Tariff bill, H. R. 2667.

Messrs. Capper, Kans., R., Fess, Ohio, R., Shortridge, Calif., R., Vandenberg, Mich., R., Norris, Nebr., R., Smoot, Utah, R., and others spoke on the bill.

Recessed.

#### House:

Passed H. J. Res. 44, making an appropriation of \$55,000 for participation of the United States in the celebration of the one-thousandth anniversary of the Althing, the National Parliament of Iceland, including in this appropriation a statue or other memorial of Leif Ericson as a gift of the American people to Iceland.

Began consideration of H. R. 8531, the Treasury and Post Office Department Appropriation bill.

Representatives Kopp, Iowa, R., Goldsborough, Md., D., Mouser, Ohio, R., Hartley, N. J., R., and others spoke on the bill.

Representative Black, N. Y., D., spoke on Law Enforcement.  
Representative Gibson, Vt., R., spoke on H. R. 2858, urging the erection by the Government of a home for the Vice President.

Representative Green, Fla., D., praised the 4-H Clubs.

Received the resignation of Mr. Robison as a Representative from the State of Kentucky.  
Adjourned.

#### Thursday, January 16, 1930.

##### Senate:

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Connally, Tex., D., Blaine, Wis., R., Smoot, Utah, R., Howell, Nebr., R., and others spoke on the bill.

Agreed by a vote of 48 to 38, (not voting, 10), to retain the present tariff duty on sugar.

Mr. Blaine, Wis., R., spoke on the proposed repeal of the Eighteenth Amendment.

Mr. Sheppard, Tex., D., spoke on the Tenth Anniversary of Prohibition.

Passed H. R. 6344, amending the United States Code in regard to the terms of Court in the western judicial district of Virginia.

Passed H. J. Res. 204, making an appropriation of \$55,000 for participation of the United States in the celebration of the one-thousandth anniversary of the Althing, the National Parliament of Iceland. This appropriation included a statue or other memorial of Leif Ericson as a gift of the American people to Iceland.

Passed S. J. Res. 118, authorizing additional appropriations of \$3,000,000 for the relief of Porto Rico.

Messrs. Walsh, Mass., D., Harrison, Miss., D., Smoot, Utah, R., and others spoke on H. R. 2667, the tariff bill.

Executive session.

Recessed.

##### House:

Representative Howard spoke on the importance of service in Congress and the honor in being elected a member of the House of Representatives.

Representative Oliver, N. Y., D., spoke against the President's recommendations regarding the National Commission on Law Enforcement and Observance.

Resumed consideration of and passed H. R. 8531, the Treasury and Post Office Departments appropriation bill.

Representatives Tilson, Conn., R., Bankhead, Ala., D., Cooper, Ohio, R., O'Connell, N. Y., D., Palmer, Mo., R., Lankford, Ga., D., Johnson, Nebr., R., Hastings, Okla., D., and others spoke on the bill.

Adjourned.

#### Friday, January 17, 1930.

##### Senate:

Passed S. J. Res. 117, for the relief of farmers and fruit growers in the storm and flood stricken areas of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia.

Passed S. 2093, for the relief of Alabama for damage to and destruction of roads and bridges by floods in 1929.

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Bingham, Conn., R., Howell, Nebr., R., Broussard, La., D., Steck, Iowa, D., Smoot, Utah, R., Brookhart, Iowa, R., and others spoke on the bill.

Mr. Blease, S. C., D., spoke concerning crime in the District of Columbia.

Recessed.

##### House:

Resumed consideration of H. R. 8531, the Treasury and Post Office Departments appropriation bill.

Representatives Sirovich, N. Y., D., William E. Hull, Ill., R., Wood, Ind., R., McLaughlin, Mich., R., and others spoke on the bill.

Adjourned.

#### Saturday, January 18, 1930

##### Senate:

Passed S. 3030, regarding College Agricultural Extension work.

Passed S. 1487, authorizing the Secretary of the Treasury to permit the erection of a building for use as a residence for the Protestant chaplain at the National Leper Home at Carville, La.

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Smoot, Utah, R., George, Ga., D., Smith, S. C., D., Gillett, Mass., R., and others spoke on the bill.

Mr. Tydings, Md., D., had inserted in the Record figures compiled to show the number of deaths resulting from the enforcement of prohibition.

Recessed until Monday, January 20, 1930.

##### House:

Passed S. J. Res. 118, authorizing additional appropriations of \$3,000,000 for the relief of Porto Rico.

Passed H. R. 6125, authorizing and directing the Secretary of War to loan to the Governor of Mississippi certain tents and other equipment to be used at the encampment of the United Confederate Veterans, to be held at Biloxi, Miss., in June, 1930.

Resumed consideration of and passed without a record vote, H. R. 8531, the Treasury and Post Office Departments Appropriation bill.

Representatives La Guardia, N. Y., R., Wood, Ind., R., Moore, Va., D., Ramseyer, Iowa, R., Linthicum, Md., D., and others spoke on the bill.

Adjourned.

#### Monday, January 20, 1930

##### Senate:

Resumed consideration of H. R. 2667, the tariff bill.

Messrs. Walsh, Mass., D., Deneen, Ill., R., Smoot, Utah, R., and others spoke on the bill.

Mr. Watson, Ind., R., and others spoke in tribute to the Senators from North Carolina, as each had observed recently his 76th birthday; Senator Overman on January 3rd and Senator Simmons on January 20th.

Passed H. R. 6125, authorizing and directing the Secretary of War to loan to the Governor of Mississippi certain tents and other equipment to be used at the encampment of the United Confederate Veterans, to be held at Biloxi, Miss., in June, 1930.

Messrs. McKellar, Tenn., D., Fess, Ohio, R., Howell, Nebr., R., Borah, Idaho, R., Blaine, Wis., R., Smoot, Utah, R., and others spoke on the tariff bill, H. R. 2667.

Executive session.

Recessed.

##### House:

Representative French, Idaho, R., Chairman, Appropriations subcommittee in charge of naval appropriations, discussed the coming London conference on naval armament limitations and costs of naval programs. He summarized the probable costs of construction of all types of naval vessels, during the next fifteen (15) years, in event the London conference failed, at \$2,000,000,000.

Passed H. R. 5262, amending Section 892, of the Revised Statutes of the United States.

Passed several bridge bills.

Passed H. R. 5277, to eliminate the renewal of oath of office of Government employees under certain conditions.

Passed H. R. 1198, regarding the determination of the title to all or any of the lands constituting the beds of Malheur and Harney Lakes in Harney County, Oregon.

Passed H. R. 977, establishing under the jurisdiction of the Department of Justice a division of the Bureau of Investigation known as the bureau of identification and information.

Passed H. R. 3395, authorizing the Commissioner of Prohibition to pay for information concerning violations of the narcotic laws of the United States.

Passed S. J. Res. 115, authorizing the appointment of an ambassador to the Republic of Poland, who shall receive as compensation the sum of \$17,500 per annum.

Passed seven other minor bills on the calendar.

Adjourned.

# EXECUTIVE DEPARTMENT

## The White House Calendar

December 30 to January 21

### Executive Orders

*December 30, 1929*—An executive order amending Schedule B, Civil Service Rules, to include attorneys and experts, Federal Farm Board, and also to use Personnel Classification Board in connection with salaries in comparison with similar positions elsewhere.

*January 2, 1930*—An executive order extending for ten years the period of trust on allotments made to Indians on the Omaha Reservation in Nebraska.

*January 2*—An executive order withdrawing an 80-acre tract of land in Michigan pending determination as to advisability of including it in a national forest.

*January 2*—An executive order amending Order of March 5, 1924, relating to the authority of the Governor of the Panama Canal to grant pardons, paroles, etc.

*January 4*—An executive order announcing allowances for quarters and subsistence for enlisted men who are not furnished quarters or rations in kind applicable to Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey and Public Health Service.

*January 11*—An executive order forming a commission for more economical and effective conduct of business in Alaska.

*January 22*—An executive order authorizing the Alien Property Custodian to sell certain stock of the United States Metal Refining Company.

### Proclamations

*January 8*—A proclamation of the treaty of conciliation between the United States and Poland.

*January 8*—A proclamation of the Treaty of Arbitration between the United States and Poland.

*January 17*—A proclamation with Japan for the prevention of smuggling intoxicating liquors.

*January 21*—A proclamation of the Convention to safeguard the livestock interests of the United States and Mexico, concluded at Washington, on March 16, 1928.

*January 21*—A proclamation of the Treaty of Arbitration between the United States and Lithuania.

*January 21*—A proclamation of the Treaty of Conciliation between the United States and Lithuania.

### Messages to Congress

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriation amounting to \$6,463,689.48, for the Department of Commerce.

ment of Commerce.

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriation, amounting to \$503,824.81 for the Department of the Interior.

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriation for the Department of Commerce, amounting to \$37,835.

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriation for the Department of Labor, amounting to \$634,250, for the fiscal year ending June 30, 1930.

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriation for the Department of Justice, amounting to \$2,144,270.93, for the fiscal year 1930, 1929 and prior years.

*January 6*—A message from the President of the United States transmitting supplemental and deficiency estimates of appropriations for the Department of Interior, Bureau of Indian Affairs, amounting to \$488,614.03, for the fiscal years of 1929 and 1930.

*January 6*—A message from the President of the United States transmitting deficiency and supplemental estimates of appropriations for the Department of State, amounting to \$263,601.41, for the fiscal years 1929 and prior years, 1930 and 1931.

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriations for the Department of Agriculture, amounting to \$37,443,000, for the fiscal year 1930-31.

*January 6*—A message from the President of the United States transmitting supplemental and deficiency estimates of appropriations amounting to \$2,870,331.87, for the Treasury Department for the fiscal year 1929 and 1930.

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriation amounting to \$7,998,096.33, for the War Department for the fiscal year 1930.

*January 6*—A message from the President of the United States transmitting supplemental and deficiency estimates of appropriations amounting to \$356,475.90, for the Post Office Department for the fiscal year 1929 and prior years and 1930.

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriations amounting to \$68,500, for the District of Columbia, for the fiscal year 1930.

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriations amounting to \$1,977,762.09 for the Navy Department, for the fiscal year 1930.

*January 6*—A message from the President of the United States transmitting supplemental estimate of appropriations amounting to \$34,000, pertaining to the Legislative Establishment, United States Botanical Gardens, for the fiscal year 1930.

*January 7*—A message from the President of the United States transmitting supplemental estimate of appropriations amounting to \$16,557,494, for the executive offices and certain independent establishments for the fiscal year 1930.

*January 9*—A message from the President of the United States transmitting estimate of appropriations submitted by the several executive departments and independent offices to pay claims for damages to privately owned property and damages by collision with naval and lighthouse vessels, in the sum of \$64,429.89.

*January 9*—A message from the President of the United States transmitting schedule covering certain claims allowed by the General Accounting Office, in the sum of \$337.76.

*January 9*—A message from the President of the United States transmitting list of judgments rendered by the Court of Claims, requiring an appropriation for their payment, amounting to \$2,096,368.89.

*January 9*—A message from the President of the United States transmitting schedules covering certain claims allowed by the General Accounting Office, in the sum of \$17,225.64.

*January 9*—A message from the President of the United States transmitting records of judgments rendered against the Government by the United States district courts, amounting to \$348,464.80.

*January 10*—A message from the President of the United States transmitting draft of proposed legislation affecting the use of an existing appropriation for the Treasury Department.

*January 16*—A message from the President of the United States transmitting supplemental estimate of appropriation, amounting to \$174,888.90, for the Navy Department for the fiscal year 1930.

*January 17*—A message from the President of the United States transmitting supplemental estimate of appropriation for the Department of Commerce for the fiscal year ending June 30, 1931, amounting to \$229,380.

*January 20*—A message from the President of the United States transmitting supplemental estimate of appropriation for the Federal Radio Commission for the fiscal year ending June 30, 1931, amounting to \$206,640.

#### Important Civilian Appointments

*January 6*—Charles C. Eberhardt, of Kansas, to be Envoy of the United States to Costa Rica.

*January 6*—Robert D. Coe, of Wyoming, to be a secretary in the diplomatic service of the United States.

*January 6*—Myrl S. Myers, of Pennsylvania, to be a consul general of the United States.

*January 6*—Thomas W. Whittle, of New York, to be surveyor of customs in customs collection district No. 10, with headquarters in New York, N. Y.

*January 6*—Charles H. Holtzman, of Cumberland, Md., to be collector of customs for customs collection

district No. 13, with headquarters at Baltimore, Md.

*January 6*—John Wilburn Moore, of Arkansas; John C. Ing, of California; Brainerd B. Smith, of California; Peter G. Johnston, of Idaho; James H. H. Hewett, of Nebraska; Miss Clara M. Crisler, of Nevada; John Ira Kirby, of Wyoming; Joseph T. Booth, of Wyoming; Mart T. Christensen, of Wyoming; Alfred M. Bergere, of New Mexico; Hamill A. Canaday, of Oregon; Dr. James W. Donnelly, of Oregon, and Eli F. Taylor, of Utah, to be registers of the land offices in the above named States.

*January 6*—Karl Theile, of Alaska, to be secretary of the Territory of Alaska.

*January 9*—Frederic M. Sackett, of Kentucky, to be Ambassador of the United States to Germany.

*January 9*—Abraham C. Ratschesky, of Massachusetts, to be Envoy of the United States to Czechoslovakia.

*January 9*—Gilchrist Baker Stockton, of Florida, to be Envoy of the United States to Austria.

*January 9*—William E. Lee, of Idaho, to be an Interstate Commerce Commissioner for the term expiring December 31, 1931.

*January 9*—James Waldron Remick, of New Hampshire, to be War Claims Arbitrer.

*January 9*—Albert H. Tarleton, of Honolulu, Hawaii, to be Collector of Internal Revenue for the District of Hawaii.

*January 9*—Thomas L. Walker, of Lexington, Ky., to be Collector of Customs for customs collection district No. 42, with headquarters at Louisville, Ky.

*January 11*—Herman Hornel, of Boston, Mass., to be Surveyor of Customs in customs collection district No. 4, with headquarters at Boston, Mass.

*January 11*—Willfred W. Lufkin, of Essex, Mass., to be Collector of Customs for customs collection district No. 4, with headquarters at Boston, Mass.

*January 13*—Edward P. Lawton, Jr., of Georgia; William Clarke Vyse, of the District of Columbia, and Julian F. Harrington, of Massachusetts, to be Consuls of the United States.

*January 14*—Charles R. Cameron, of New York, to be a Consul General of the United States.

*January 14*—Charles L. Sheridan, of Great Falls, Mont., to be Collector of Customs for customs collection district No. 33, with headquarters at Great Falls, Mont.

*January 15*—John Motley Morehead, of New York, to be Envoy of the United States to Sweden.

*January 15*—William B. Hamilton, of San Francisco, Calif., to be Collector of Customs for customs collection district No. 28, with headquarters at San Francisco, Calif.

*January 16*—Henry Wharton Shoemaker, of Pennsylvania, to be Envoy of the United States to Bulgaria.

*January 16*—Andrew B. Dunsmore, of Pennsylvania, to be United States Attorney, Middle District of Pennsylvania.

*January 16*—Jacob D. Walter, of Connecticut, to be U. S. Marshal, district of Connecticut.

*January 16*—Dwight Hall, of Dover, N. H., to be comptroller of customs in customs collection district No. 4, with headquarters at Boston, Mass.

*January 17*—Edward Page, Jr., of Massachusetts, to be a Secretary in the Diplomatic Service of the United States.

*January 17*—William N. Ivie, of Arkansas, to be U. S. Attorney, western district of Arkansas.

*January 20*—Ralph H. Booth, of Michigan, to be Envoy of the United States to Denmark.

*January 20*—Samuel L. Denty to be a temporary ensign in the Coast Guard of the United States.

### The Paris Arrangement of 1910

(Continued from page 49)

regard to the object of the present Arrangement.

The Contracting Governments shall mutually make known to one another, through the Government of the

French Republic, the authority established or designated in accordance with the present Article.—*Extracts, see 5, pg. 64.*

### The Stockholm Postal Convention of 1924

Paragraph 2—Articles which have been wrongly admitted to the mails must be returned to the country of origin, except in cases where the Administration of the country of destination is authorized by its legislation or domestic regulations to dispose of them otherwise.

However, explosives, inflammable, or dangerous substances, and obscene or immoral articles are not returned to the country of origin; they are destroyed on the spot by the services of the Administration which has detected their presence.

### Sources from Which Material in This Number Is Taken

Articles for which no source is given have been specially prepared for this number of THE CONGRESSIONAL DIGEST

- 1—Encyclopedia Britannica.
- 2—Monroe's Cyclopedia of Education.
- 3—Our Ancient Liberties—The H. W. Wilson Co., New York, 1927.
- 4—Senate Document No. 54, 71st Congress, 2d Session, A Digest of Laws on Obscene Literature, Compiled by Agnes M. Brown, under direction of H. H. B. Meyer, Director, Legislative Reference Service, Library of Congress.
- 5—Arrangement between the U. S. and other Powers Relative to the Repression of the Circulation of Obscene Publications—Treaty Series, No. 559.
- 6—Congressional Record, October 11, 1929.
- 7—Criminal Obscenity, by John Ford, Fleming H. Revell Co., New York.

### Statement of Ownership

(Required by Act of Congress, August 24, 1912)

OF THE CONGRESSIONAL DIGEST, published monthly (except for months of July and August), at Washington, D. C., for October 1, 1929.

Before me, a Notary Public in and for the District of Columbia, City of Washington, personally appeared Alice Gram Robinson who, having been duly sworn according to law, deposes and says she is the Editor, Publisher and Owner of THE CONGRESSIONAL DIGEST and that the following is, to the best of her knowledge and belief, a true statement of the ownership, management, etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912, embodied in Section 443, Postal Laws and Regulations, to-wit:

1. That the name and address of the publisher, editor, man-

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2. That the owner is: Alice Gram Robinson, Munsey Building, Washington, D. C.

3. That the known bondholders, mortgagors, and other security holders owning or holding one per cent or more of total amount of bonds, mortgages, or other securities are (if there are none, so state). None.

Alice Gram Robinson,

Signature of Editor, Publisher and Owner.

Sworn to and subscribed before me this fourth day of November, 1929.

JOSEPH STEARNS, Notary Public.

My commission expires April 23, 1931.

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